



DIRECTOR GENERAL OF THE WTO: THE PAST, PRESENT AND FUTURE

Rishabha Meena
James J. Nedumpara
Siddharth S. Aatreya

Discussion Paper No. 9/2020

CENTRE FOR TRADE AND INVESTMENT LAW

Disclaimer

The views expressed in this background paper represent those of the authors and is a product of research conducted at the Centre for Trade and Investment Law, Indian Institute of Foreign Trade. The views reflected in this paper cannot be attributed to the Government of India or any of its officials.

DIRECTOR GENERAL OF THE WTO: THE PAST, PRESENT AND FUTURE

Abstract

The Director-General of the WTO is, in many ways, the face of the institution and a spokesperson to the international community. The Director-General plays a vital role in maintaining the stature and profile of WTO as an international organization responsible for ensuring free trade. The Director-General has multiple roles—as a mediator, administrator, facilitator and negotiator. The role of the Director-General has transformed over the years with varying degrees of involvement in the negotiation and dispute resolution functions of the WTO. Interventions by the Director-General, however, have often proved useful to the development of the institution and the WTO legal order. Mr. Azevêdo's recent resignation has triggered a widespread debate on who his successor should be and how the new Director-General should discharge his responsibilities, especially in light of many ongoing crises – most prominently, a weakened global trading order and COVID-19. In this context, this paper analyses the WTO legal framework on the role of the DG, and makes a comparative assessment of the demographic and qualifications-based markers for the appointment of the next Director-General.

TABLE OF CONTENTS

I. INTRODUCTION 2

II. FUNCTIONS OF THE DG 3

**III. PROCEDURE FOR THE APPOINTMENT OF THE DIRECTOR-GENERAL: ARE
THE EXISTING RULES SUFFICIENT?..... 8**

IV. ASSESSING THE NEXT DG – DEMOGRAPHIC MARKERS..... 10

V. CONCLUSION – A ROADMAP FOR THE FUTURE 15

I. INTRODUCTION

The General Agreement on Tariffs and Trade, 1947 (“GATT, 1947”) and its successor the World Trade Organization (“WTO”) provided a certain, predictable, and stable multilateral trading arrangement, where countries enjoyed formal equality irrespective of their economic status.¹ To fulfil this mandate and address a wide range of issues that fall within the scope of a multilateral trade institution, the WTO has developed a sophisticated institutional structure. This includes the Ministerial Conference (“MC”), General Council² (“GC”) (under which other specialized councils such as Council for Trade in Goods, Council for Trade in Service, and Council for Trade-Related Aspects of Intellectual Property Rights operate) and Working parties and Working groups functions where decisions are taken by voting.³ Apart from these bodies, the WTO is serviced by the Secretariat, providing technical and administrative support to these different WTO bodies.⁴ This crucial body is headed by the Director-General (“DG”) (assisted by four Deputies) – the post which is the subject of this paper.

As head of the WTO Secretariat, the DG is the face of the institution to the international community, and the leader of the staff who work within the Secretariat. This role has recently fallen vacant, following the resignation of incumbent DG, Roberto Azevêdo.⁵ His successor will inherit leadership over an institution facing significant existential threats – a faltering dispute settlement system, a negotiating arm that has been suffering for a while and an ever rising number of trade-restrictive measures regularly imposed (and retaliated against unilaterally) by Members,⁶ rampant use of “national security” measures,⁷ and importantly a world economy that is reeling from the impact of the ongoing COVID-19 pandemic.

Against this background, this Discussion Paper throws light on the functions of the DG, the role of the DG in the context of the present crises facing the WTO and what the next DG should attempt to address in order to fulfil the DG’s broad mandate and protect WTO as the preeminent multilateral institution dealing with international trade. Part II of this paper critically analyses provisions of the Marrakesh Agreement establishing the WTO (“Marrakesh Agreement”) along with its covered agreements dealing with the DG. Absent any specific provision in WTO law providing a

¹ Amrita Narlikar, *WTO Decision-Making and Developing Countries* (Trade-Related Agenda, Development and Equity (T.R.A.D.E.) Working Papers 11, The South Centre, Nov. 2001) <https://www.iatp.org/sites/default/files/WTO_Decision-Making_and_Developing_Countries.htm> (accessed 9 Jul. 2020).

² Apart from other councils working under the General Council, the General Council also meets as the Dispute Settlement Body, and the Trade Policy Review Body.

³ Art. IX, Marrakesh Agreement Establishing the World Trade Organization 1994, Apr. 15 1994, 1867 UNTS 3, 1868 UNTS 3, 1869 UNTS 3 (“Marrakesh Agreement”).

⁴ *Career Opportunities*, World Trade Organization, <<https://voxeu.org/article/selecting-next-wto-director-general-what-trade-community-thinks>> (accessed 9 Jul. 2020).

⁵ *DG Azevêdo announces he will step down on 31 August* (WTO News Item, 14 May 2020) <https://www.wto.org/english/news_e/news20_e/dgra_14may20_e.htm> (accessed 9 Jul. 2020).

⁶ Tim Hepher *et al.*, *U.S. widens trade war with tariffs on European planes, cheese, whisky to punish subsidies* (Reuters, 2 Oct. 2019) <<https://www.reuters.com/article/us-wto-aircraft/u-s-widens-trade-war-with-tariffs-on-airbus-planes-french-cheese-scotch-whisky-idUSKBN1WH0SI>> (accessed 9 Jul. 2020); Julia Horowitz, *Tariffs, Trump and trade wars: Here's what it all means* (CNN Business, 9 Mar. 2018) <<https://money.cnn.com/2018/03/08/news/economy/tariff-explainer/index.html>> (accessed 9 Jul. 2020).

⁷ Lauren Rollins, *Trump Is Trying to Dismantle the WTO. That Can't Happen* (RStreet, 26 Apr. 2019) <<https://www.rstreet.org/2019/04/26/trump-is-trying-to-dismantle-the-wto-that-cant-happen/>> (accessed 9 Jul. 2020).

consolidated list of the DG's functions, this paper will look at the past instances where DGs have played a pivotal role in steering the institution. Part III of this paper will then look into controversies concerning the appointment of the DG and critically analyse the Procedures for the Appointment of Directors-General adopted by the GC in 2002 ("2002 Procedure"). Part IV delves into the existing debate surrounding the resignation of Mr. Azevêdo and assesses his potential successors against a variety of criteria, including their experience in trade negotiations, gender, geographical background, citizenship etc. Part V concludes the Paper by identifying the way forward.

II. FUNCTIONS OF THE DG

The WTO DG heads the WTO Secretariat and is considered as the international spokesperson, marketing executive and "spiritual leader" of the WTO.⁸ WTO Members are discouraged from influencing the DG to prevent partiality in the discharge of his duty. Article VI:2 of the WTO Agreement casts a duty on the MC to lay out the powers, duties, conditions of service, and terms of office of the DG. However, except for the terms of office (in terms of the duration and procedure of appointment which was done by the GC) and the conditions of service,⁹ the MC has failed to fulfil the mandate of Article VI:2 of the Marrakesh Agreement. Consequently, there is no codified basis for one to establish clearly what the role of the DG is supposed to be. As a result, the role played by the DG has changed drastically over time. For instance, during the GATT era and the Uruguay round negotiations, the DG and the Secretariat acted on behalf of all Members and took on an impartial role in trade negotiations. After the establishment of the WTO, however, there have been allegations of partiality against DGs, who have retreated to more limited roles.¹⁰ Based on past practices and the approach suggested by the Report by the Consultative Board to the Director-General Supachai Panitchpakdi ("Consultative Board Report"),¹¹ the DG can be said to have the following functions:

1. Administrative Functions

The DG plays a vital role in managing financial and administrative matters. The DG is responsible for establishing rules to carry out the financial regulations established by the GC,¹² and creating an annual financial performance report that contains the budget and audited financial statements.¹³ Additionally, the DG is responsible for the appointment of the staff of the Secretariat and determining the terms and conditions of their duties. The DG is obliged to consult with the relevant agencies, bilateral donors, and beneficiaries to find ways to enhance and rationalize the Integrated

⁸ Peter Sutherland *et al.*, *The Future of the WTO: Addressing Institutional challenges in the new millennium* (Report by the Consultative Board to the Director-General Supachai Panitchpakdi, 2004) para 74 ("Consultative Board Report").

⁹ Consultative Board Report, para 342.

¹⁰ Chakravarthi Raghavan, *The WTO, its secretariat and bias against the South* (Third World Network, 25 Apr. 2019) <<https://www.twn.my/title2/unsd/2019/unsd190403.htm>> (accessed 10 Jul. 2020).

¹¹ Consultative Board Report, para 347.

¹² Committee on Budget, Finance and Administration (World Trade Organization) <https://www.wto.org/english/thewto_e/cbfa_e/cbfa_e.htm#:~:text=The%20General%20Council%20approved%20the,Financial%20Rules> (accessed 10 Jul. 2020).

¹³ *Ibid.*

Framework for Trade-Related Technical Assistance to Least-Developed Countries and the Joint Integrated Technical Assistance Programme.¹⁴

2. Function in the settlement of WTO disputes

The DG also plays a vital organizational function during the settlement of disputes. If the main parties to the dispute do not agree to the appointment of panellists within 20 days of the establishment of a panel, the DG appoints a panellist whom the DG considers fit. Similarly, the DG appoints panel arbitrators.¹⁵ Under Article 24.4, Agreement on Dispute Settlement Undertaking (“DSU”), the DG has a duty to settle disputes involving least developed countries through mediation, conciliation and the exercise of his good offices.

3. Facilitator of the WTO

The DG has often played an important role in building consensus among WTO Members on disputed issues. Mr. Azevedo’s efforts, in fact, led to the consensus among countries on the Bali Package.¹⁶ Similarly, to resolve the Appellate Body crisis, Mr. Azevêdo called for ‘more intensive, high-level consultations’ led by him to bring consensus among WTO Members.¹⁷ During the COVID-19 pandemic, countries imposed trade restrictions on a variety of medical and other essential goods. To prevent obstruction on trade¹⁸ but simultaneously allow States to fulfil domestic demand, Mr. Azevedo asked WTO Members to submit their COVID-19 related trade policies/restrictions to the Secretariat, which was published publicly and ensured transparency and access to information for WTO members. These are some examples of measures taken by the DG that have facilitated the important role of the WTO. In a time when important negotiations are pending and new initiatives are required to reform the WTO and equip it to deal with many crises, these initiatives are important to maintain stability in the system. The DG exercises significant *soft power* in this regard – his actions as head of the institution and the leader of the secretariat can convince Member States to take important measures that further the WTO’s goals, and allow it to adapt to ever-changing, challenging circumstances.

¹⁴ Ministerial Declaration Adopted on 14 November 2001, Ministerial Conference Fourth Session, Doha, 9-14 November 2001, WT/MIN(01)/DEC/1 (20 November), para 39 (“Doha Ministerial Declaration”).

¹⁵ Art. 22.6, Understanding on Rules and Procedures Governing the Settlement of Disputes, Marrakesh Agreement Establishing the World Trade Organization, Annex 2, 1869 U.N.T.S. 401, 33 I.L.M. 1226 (1994) (“DSU Agreement”).

¹⁶ *Azevêdo calls for APEC ministers’ help in reaching consensus on Bali package* (WTO News, 4 Oct. 2013) <https://www.wto.org/english/news_e/spra_e/spra2_e.htm> (accessed 10 Jul. 2020); *Azevêdo seeks support for Bali package from India’s government and business leaders* (WTO News, 7 Oct. 2013) <https://www.wto.org/english/news_e/spra_e/spra3_e.htm> (accessed 10 Jul. 2020).

¹⁷ *DG Azevêdo to launch intensive consultations on resolving Appellate Body impasse* (WTO News, 9 Dec. 2019) <https://www.wto.org/english/tratop_e/dispu_e/dispu_settlement_cbt_e/c8s1p2_e.htm> (accessed 10 Jul. 2020).

¹⁸ In response to India’s export restrictions on anti-malarial drug hydroxychloroquine, the US threatened to impose to retaliate after which India removed the ban. *Hydroxychloroquine: India agrees to release drug after Trump retaliation threat* (BBC, 7 Apr. 2020) <<https://www.bbc.com/news/world-asia-india-52196730>> (accessed 10 Jul. 2020).

4. Ex-Officio Chairman of the Trade Negotiations Committee

The Trade Negotiations Committee (“TNC”) was established by the Doha Ministerial Declaration,¹⁹ to work under the authority of the General Council,²⁰ to address concerns related to issues surrounding the implementation of WTO obligations and create an avenue for the generation of amicable solutions to such problems among members. The result of the negotiations is reported to the GC. The DG works as the ex-officio chairperson of the TNC.²¹ During Pascal Lamy’s tenure, the TNC brought the draft text of the transparency mechanism for regional trade agreements,²² which was later adopted by the GC in less than a month²³ to break the logjam in the WTO that was prevailing at the time.²⁴ Mr. Lamy’s efforts were crucial in pushing a solution to the TNC’s impasse and served as another example of the DG’s use of soft power to create valuable compromises among WTO members as chairperson of the TNC.

5. Providing for civil society participation in the WTO

Civil society participation is crucial in the WTO, given that trade agreements and disciplines have significant non-trade impacts, which must also be considered at the law-making and dispute resolution stages. This includes consideration of the views of those engaged in business (since international trade rules set the basis for their cross-border commercial activity), groups representing other affected individuals (farmers, producers etc. whose livelihoods often also depend on the terms of international trade) and groups representing specific causes (such as human rights and environmental protection, which are of increasing significance in international trade law).

Despite this obvious importance of civil society participation, however, there is no such formal body within the WTO system tasked with facilitating this. However, in 2003, the former DG Supachai Panitchpakdi established two *informal* bodies for this purpose – the Informal NGO Advisory Body and Informal Business Advisory Body, as platforms to create a dialogue between the WTO and these interested groups, allowing them to weigh in on WTO developments and advise the DG. However, these groups met with the DG only twice, in 2003 and 2004,²⁵ and these bodies have not functioned since then. This has created a major vacuum in the area of the WTO’s wider engagement with interested constituencies and demonstrates again that its legitimacy on this front depends on initiatives taken by the DG, albeit in an ad-hoc, unscripted manner.

¹⁹ Doha Ministerial Declaration, para 12, 46.

²⁰ *Ibid*, para 46.

²¹ *WTO DG to chair TNC* (WTO Press Release, Press/271, 1 Feb. 2001) <https://www.wto.org/english/news_e/pres02_e/pr271_e.htm> (accessed 10 Jul. 2020)

²² Communication from the Chairman of the Trade Negotiations Committee, Transparency Mechanism for Regional Trade Agreements, TN/C/8 (29 Nov. 2006).

²³ Transparency Mechanism for Regional Trade Agreements, WT/L/671 (18 Dec. 2006).

²⁴ *Lamy welcomes WTO agreement on regional trade agreements* (WTO News, 10 Jul. 2006) <https://www.wto.org/english/news_e/news06_e/rta_july06_e.htm> (accessed 10 Jul. 2020)

²⁵ Maria Perez-Esteve, *WTO rules and practices for transparency and engagement with civil society organizations*, World Trade Organization Economic Research and Statistics Division (2012) 14.

6. Representing the WTO in co-ordination with non-WTO agencies

Many WTO Agreements and disciplines rely heavily on the output of other international agencies. For instance, the World Customs Organization (“WCO”) is responsible for the classification of goods for tariff purposes - a classification which is later adopted by the WTO. The two institutions, therefore, work together on the expansion of information, product knowledge and market access.²⁶ The importance of this relationship is clear from the mandate to constitute a technical committee under the auspices of Customs Co-operation Council, a body of the WCO.²⁷ Amid the COVID-19 pandemic, the WTO DG Mr. Azevêdo and WCO Secretary General Dr. Mikuriya committed to work closely to minimize disruptions to cross-border trade,²⁸ and earlier, had expressed their desire to continue their discussion on a mutual interest in the Trade Facilitation Agreement.²⁹ Mr. Azevêdo also represented the WTO in a Technical Symposium involving the WHO, WIPO and the WTO on cutting-edge health technologies – opportunities and challenges.³⁰ Apart from these institutions, Mr. Azevêdo collaborated with the International Chamber of Commerce to coordinate with the private sector on trade’s role in the mitigation of the economic damage resulting from the pandemic.³¹ These are a limited set of examples – the WTO’s engagement with other institutions covers a wide range, including standard-setting bodies for uniform standards under the Sanitary and Phytosanitary Measures (“SPS”) Agreement etc. The DG represents the WTO in these engagements and, therefore, plays an important role in keeping the WTO functional in a wider context.

7. Holding Green Room Meetings

Green Room Meetings (“GRM”) refer to meetings of around 20-40 delegations, with the DG, to bring consensus among these members on critical negotiating issues which can later be brought to the entire WTO Membership as a whole.³² Such meetings played a vital role during the Doha round of negotiations.³³ During the 2017 MC at Buenos Aires too, GRMs were used to iron out some key points of disagreement between the parties.³⁴

²⁶ *The WTO and World Customs Organization* (WTO) <https://www.wto.org/english/thewto_e/coher_e/wto_wco_e.htm> (accessed 10 Jul. 2020)

²⁷ Annex I, para 5&6, Agreement on Rules of Origin, 1868 U.N.T.S. 397; Annex II, para 1, Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, 1868 U.N.T.S. 279.

²⁸ *WTO, WCO chiefs pledge joint efforts to facilitate trade in essential goods* (WTO News, 6 Apr. 2020) <https://www.wto.org/english/news_e/news20_e/igo_06apr20_e.htm> (accessed 10 Jul. 2020).

²⁹ *WCO and WTO agree to continue their successful collaboration at the 6th Global Review of Aid for Trade* (WCO, 14 Jul. 2017) <<http://www.wcoomd.org/en/media/newsroom/2017/july/wco-and-wto-continue-their-successful-collaboration-at-the-6th-global-review-of-aid-for-trade.aspx>> (accessed 10 Jul. 2020)

³⁰ *Technical Symposium (WHO, WIPO and WTO): Cutting-edge health technologies — opportunities and challenges* (WTO Speeches, 31 Oct. 2019) <https://www.wto.org/english/news_e/spra_e/spra291_e.htm> (accessed 10 Jul. 2020).

³¹ *Business leaders stress role of trade and WTO in COVID-19 response* (WTO Trade Dialogues, 19 May 2020) <https://www.wto.org/english/news_e/news20_e/trdia_19may20_e.htm> (accessed 10 Jul. 2020).

³² *Green Room* (Glossary Terms, WTO) <https://www.wto.org/english/thewto_e/glossary_e/green_room_e.htm> (accessed 10 Jul. 2020); Kent Jones, *Green room politics and the WTO’s crisis of representation* 9(4) *Progress in Development Studies* 349 (2009).

³³ *How the meeting was organized* (WTO Trade Topics) <https://www.wto.org/english/tratop_e/dda_e/meet08_org_e.htm> (accessed 10 Jul. 2020).

³⁴ *DG promised open-ended meets, but "Green Rooms" galore at MC11* (Third World Network, 12 Dec. 2017) <<https://www.twn.my/title2/wto.info/2017/ti171215.htm>> (accessed 10 Jul. 2020); Kent Jones, *supra* note 32, 349.

GRMs are a matter of significant controversy, since they have rightly been challenged by third-world/least developed countries for being exclusionary, allowing developed countries to take mutual decisions and simply impose them on others, and ultimately violating the collaborative, joint decision-making process originally envisaged under the WTO. However, in some contexts, specific disagreements between a few Members have the ability to stem any progress in overall multilateral negotiations at the WTO. The DG, therefore, plays a crucial role in facilitating GRMs between these countries, so as to bridge the specific differences of opinion and ensure progress in wider negotiations. As will be observed later, this role is crucial in the context of some of the specific disagreements the United States has had with other WTO Members (particularly China), which have had a debilitating impact on progress in WTO negotiations.

8. Guardian of the WTO

The DG is the “guardian” of the WTO system,³⁵ a responsibility which the DG can discharge in three ways. *First*, the DG must be an unabashed champion of the core values that underlie the WTO – multilateralism and free and fair trade. Making public speeches etc, that articulate the importance of multilateral engagement,³⁶ and reinforce the values which the WTO has embraced. These external engagements contribute in a major way in promoting the values advanced by the WTO and create public support in its favour. *Second*, the DG monitors trade policy developments, alerting WTO Members to protectionist trends and threats to the multilateral trading system, as Mr. Azevêdo recently did when he cautioned the WTO Members against protectionism.³⁷ *Third*, the DG often takes initiatives that further the objectives of the WTO and can save it from serious crises.

The functions of the DG are not limited to those that are mentioned above. Considering the dynamics of international trade and the ever-changing landscape of challenges that face the multilateral trading system, the DG’s role as the guardian of the WTO will often require new, unprecedented steps and measures. The flexible nature of the role is magnified by the absence of a clear mandate from WTO Members on what the role of the DG should look like.

While this flexible nature may be viewed by some as an advantage (since the DG is free to mould his responsibilities to suit changing circumstances), it leaves the effectiveness of the DG’s role to chance and to the beliefs of the individual who holds the post. A stronger *institutionalised* mechanism would involve a clear mandate for the DG, who could then act to solve the WTO’s crises from within the bounds of a well-defined role. Thus, the upcoming Kazakhstan MC is an excellent opportunity for WTO Members to fulfil the mandate of Article VI:2, Marrakesh Agreement and clearly lay out what the scope of the DG’s responsibilities are.

In engaging in this, Members can benefit from existing views on how the role of the DG should be shaped. From the list created in this section itself, Members can reflect upon the roles the DGs have played in the past and set out a vision that the DG should do in this future to steer the Organization

³⁵ Richard Blackhurst, *The Role of the Director-General and the Secretariat* in *The Oxford Handbook on World Trade Organization* (Amrita Narlikar et al. eds., 2012).

³⁶ Pascal Lamy, *Use multilateral trade negotiations and the WTO system as impetus for greater regional integration* (WTO Speeches, 29 Jan. 2012) <https://www.wto.org/english/news_e/sppl_e/sppl214_e.htm> (accessed 10 Jul. 2020).

³⁷ *Azevêdo welcomes call in Davos for progress at the WTO; urges caution on protectionism* (WTO News, 20 Jan. 2017) <https://www.wto.org/english/news_e/news17_e/dgra_20jan17_e.htm> (accessed 10 Jul. 2020).

out of the multitudinous challenges it is facing now. They may also choose to pay heed to some more innovative proposals. Marc L. Busch,³⁸ for instance, has suggested that the role of the DG should be divided into two, internal and external and two separate DGs should be appointed for each position. The internal DG could be tasked with handling internal administrative matters of the WTO, while the external DG could act as an honest broker of the institution, engaging with other international bodies and the international community as a whole and acting as an envoy and ambassador for the ideals of free and fair international trade.

III. PROCEDURE FOR THE APPOINTMENT OF THE DIRECTOR-GENERAL: ARE THE EXISTING RULES SUFFICIENT?

The appointment of the DG has been mentioned in Article VI:2 of the Marrakesh Agreement, under which the MC must appoint the DG and lay down the rules and regulations for the same.³⁹ As highlighted earlier, no such rules or regulations have been laid down in this regard. It was only after a dispute that arose in connection with the appointment of a replacement of Renato Ruggiero in 2002 that the Procedures for the Appointment of Directors-General was adopted by the GC (“2002 Procedures”). There were four contesting candidates for the position, but it finally came down to a race between Thailand's Supachai Panitchpakdi and New Zealand's Mike Moore.⁴⁰ The US considered Supachai an ineffective bureaucratic player in Thai policymaking during the Asian economic crisis, and hence opposed his nomination.⁴¹ Countries like Tanzania had other concerns, advocating for a geographical balance and seeking a DG from a developing country.⁴² Despite the ‘no veto no vote’ practice, Supachai’s supporters advocated for the voting system as they considered him as a representative for the developing countries. The US vehemently objected to voting in this issue and ultimately sided with Moore. After 9 months of tussle and deterioration of relations between Thailand and the United States, a term sharing by Moore and Supachai was finally agreed to.⁴³ The 2002 procedure was a result of this international political stand-off.⁴⁴

The resultant procedure laid out for the appointment of the DG, that would be followed this time around too, is as follows:

³⁸ Marc L. Busch, *The WTO needs a new DG: No time for business as usual* (Atlantic Council, 26 May 2020) <<https://www.atlanticcouncil.org/blogs/new-atlanticist/the-wto-needs-a-new-dg-no-time-for-business-as-usual/>> (accessed 10 Jul. 2020).

³⁹ Art. VI, Marrakesh Agreement.

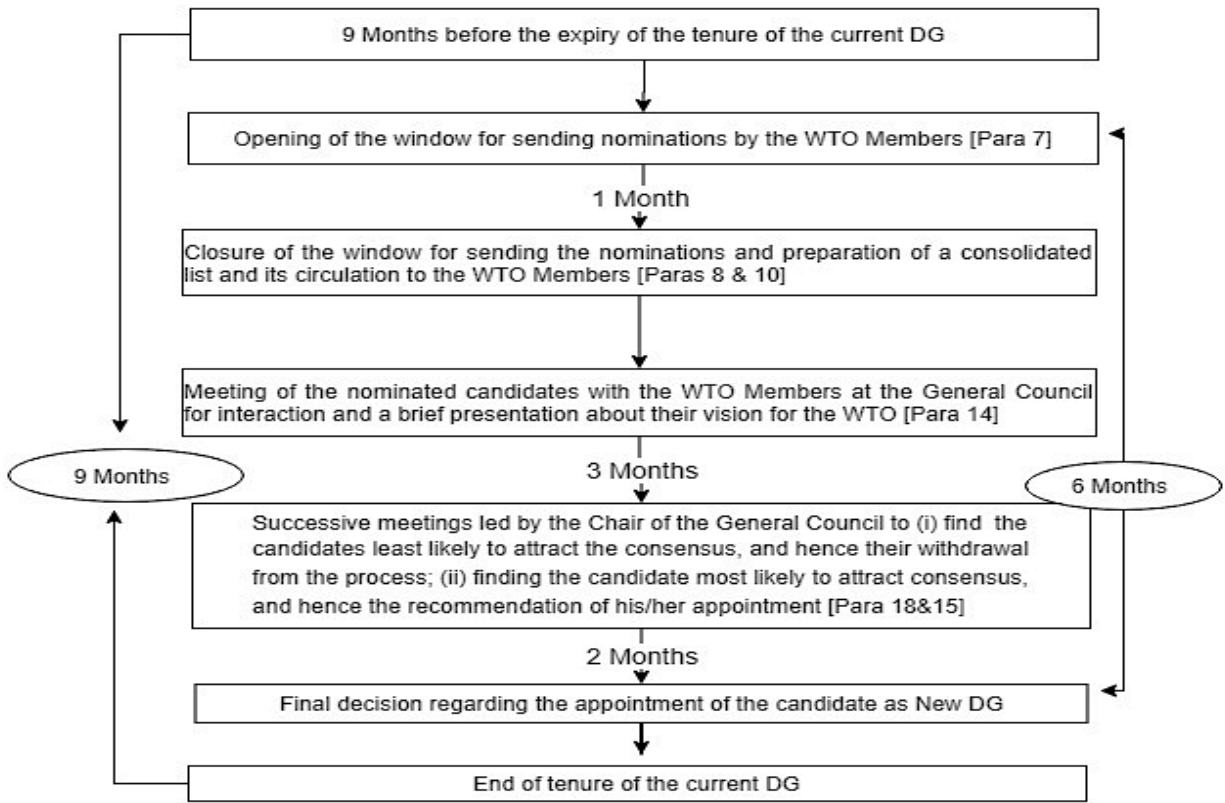
⁴⁰ John Zarocostas, *Race for WTO Chief Already Gearing up*, *Journal of Commerce* (14 October 1997) 3A.

⁴¹ *Diagnosis: Selection at the World Trade Organization*, 67 <https://piie.com/publications/chapters_preview/339/3iie3357.pdf> (accessed 10 Jul.2020).

⁴² *Ibid*, 64.

⁴³ *WTO member governments agree on Director-General succession* (WTO Press Release, Press/131, 22 Jul. 1999) <https://www.wto.org/english/news_e/pres99_e/pr131_e.htm> (accessed 10 Jul. 2020).

⁴⁴ Procedures for the Appointment of Directors-General adopted by the GC (2002) (“2002 Procedures”), para 9.



The above-mentioned procedure is applicable only in cases where there is no reappointment of the current DG, since the tenure of the DG i.e., 4 years is subject to an extension of four more years. For this, the existing DG has to inform the GC about his intention to seek reappointment, which is then informed to the WTO Members so that they can consider it while sending their nominations.⁴⁵

It is a mandatory obligation that consensus should be used in the decision-making process of selecting the new candidate.⁴⁶ Voting is resorted to if WTO Members do not reach consensus within the stipulated deadline on the appointment of the new DG (i.e. 6 months).⁴⁷ Therefore, the process of voting should be resorted to in the last three months before the expiry of the tenure of the current DG. The 2002 Procedure expressly states that voting should be considered as an “exceptional departure from the customary practice of decision-making by consensus” and “shall not establish any precedent for such recourse”.⁴⁸

In cases where the parties fail to reach any decision regarding the appointment of the DG, the GC selects an acting DG among the existing four Deputy DGs. However, it is crucial to note that the procedure for selecting the DG among the Deputy DGs is the same as that of the normal procedure provided in the 2002 Procedure.⁴⁹

⁴⁵ *Ibid*, para 12 & 21.

⁴⁶ *Ibid*, para 17.

⁴⁷ *Ibid*, para 20.

⁴⁸ *Ibid*, para 20.

⁴⁹ *Ibid*, para 23.

Within the scope of this limited procedure, concerns have been raised around the efficacy of the stipulated process. For instance, the Consultative Board Report has criticized the nomination process countries are required to send the nomination of their nationals,⁵⁰ which will create biases in the decision-making process which will ultimately act as a blockage on the way of consensus. It may also give rise to the possibility of geopolitics rather than the merit and efficacy of the institution which has an impact on the weakening of the working of the WTO.

IV. ASSESSING THE NEXT DG – DEMOGRAPHIC MARKERS

Mr. Azevêdo's resignation will become effective on 31 August 2020,⁵¹ allowing WTO Members to shape their post-COVID-19 policies in a new trading world with a new DG.⁵² Due to the postponement of the Kazakhstan MC, which will now happen in the middle or end of 2021, he decided to quit early – the selection of his successor would have clashed with the MC he retired as expected in December 2020. The window for sending the nominations was opened on 8 June 2020 and the final date for sending the nominations was 8 July 2020.⁵³ As on that date, Dr. Jesús Seade Kuri of Mexico, Dr. Ngozi Okonjo-Iweala of Nigeria, Mr. Abdel-Hamid Mamdouh of Egypt, Mr. Tudor Ulianoschi of Moldova, Ms. Yoo Myung-hee of Republic of Korea, Ms. Amina C. Mohamed of Kenya, Mr. Mohammad Maziad Al-Tuwaijri of Kingdom of Saudi Arabia, and Dr. Liam Fox of the United Kingdom have been nominated. Surprisingly, major economies like the USA, the EU, China, India, Canada and Japan did not nominate candidates for the post. These candidates have made presentations on their vision for the WTO to WTO Members in the GC from 15 July 2020 to 17 July 2020.⁵⁴ The new DG has to reassert the transcendence of the WTO and advocate for new trade policies in light of the current pandemic, and broader economic policies that affect health as well as economic well-being.⁵⁵

Based on the recent survey done by the European University Institute ahead of the selection of the DG in 2020,⁵⁶ the criteria considered by WTO Members while selecting the candidate are (i) desirable professional attributes (political experience, economic training and handling WTO negotiations, legal background),⁵⁷ (ii) competence and regional diversity and (iii) gender. From the survey, it was concluded that WTO Members consider professional attributes as highly desirable, whereas the regional diversity and development status of the country of the nominated candidate

⁵⁰ Consultative Board Report, para 352.

⁵¹ *DG Azevêdo announces he will step down on 31 August* (WTO News Item, 14 May 2020) <https://www.wto.org/english/news_e/news20_e/dgra_14may20_e.htm> (accessed 11 Jul. 2020).

⁵² *Ibid.*

⁵³ *WTO establishes nomination window for DG selection* (WTO News Item, 20 May 2020) <https://www.wto.org/english/news_e/news20_e/dgsel_20may20_e.htm> (accessed 11 Jul. 2020).

⁵⁴ The normal timeline for delivering such presentation by the nominated candidate and their interaction with the WTO Members at the General Council is 2 months. However, it time has been reduced considering the peculiar circumstances of current process of the selection of the DG.

⁵⁵ Frederick M. Abbott, *World Trade Organization Faces Leadership Battle In Shadow Of Crisis Over Organization's Future* (Health Policy Watch, 2 Jun. 2020) <<https://healthpolicy-watch.news/world-trade-organization-faces-leadership-battle-in-shadow-of-crisis-over-organizations-future/>> (accessed 10 Jul. 2020).

⁵⁶ Matteo Fiorini et al., *Stakeholder Preferences and Priorities for the Next WTO Director General* (European University Institute Working Papers RSCAS 2020/43) (2020); Matteo Fiorini et al., *Selecting the next WTO Director-General: What the trade community thinks* (Vox, 8 Jul. 2020) <<https://voxeu.org/article/selecting-next-wto-director-general-what-trade-community-thinks>> (accessed 11 Jul. 2020).

⁵⁷ 2002 Procedure, para 9.

and their gender has not been given much importance. Similarly, Marc L. Busch advocated for the idea of 3Gs (geography, gender and GDP) in identifying a suitable candidate for the position of the DG.⁵⁸ In the past, the chair of the DG rotated alternatively between developed and developing countries, and since the demitting DG is from Brazil (considered a developing country), developed Members such as the EU, the USA and Canada are in favor of a new DG from a developed country.⁵⁹ However, one of the important points which must be considered now is that there has not been any female DG or a DG from the least developed countries ("LDC") till now – a key diversity deficit that WTO members can cover in the 2020 election.

In light of possible views surrounding the appointment of new DG, the assessment of the nominated candidates based on the different perspectives of the WTO Members and past practices are as follows:

S. No.	NAME	ANALYSIS
1.	Dr Jesús Seade Kuri (Mexico)	Kuri is a former ambassador of Mexico to the GATT, former Deputy DG at the WTO, and served as Under Secretary for North America where he led the conclusion of the US-Mexico-Canada Agreement. ⁶⁰ He is extensively experienced in interacting with different international organizations such as the IMF and World Bank. His experience in international trade negotiations and conviction in multilateralism ⁶¹ strengthens his resume. However, regional diversity is one of the considerations of WTO Members in choosing the candidate, and in the past, DGs have rotated alternatively between developing countries and developed countries. Both Dr. Kuri and Mr. Azevêdo are from Latin American countries and developing countries.
2.	Dr Ngozi Okonjo-Iweala (Nigeria)⁶²	Okonjo-Iweala served as a managing director in the World Bank, and worked as Nigeria's Finance Minister, and Minister of Foreign Affairs. She is considered to be neutral and rather unopinionated on some crucial issues – an asset in a role that demand consensus

⁵⁸ Marc L. Busch, *The WTO needs a new DG: No time for business as usual* (Atlantic Council, 26 May 2020) <<https://www.atlanticcouncil.org/blogs/new-atlanticist/the-wto-needs-a-new-dg-no-time-for-business-as-usual/>> (accessed 10 Jul. 2020).

⁵⁹ Bryce Baschuk, *Who Will Lead the WTO and Help It Avoid Collapse?* (The Washington Post, 11 Jul. 2020) <https://www.washingtonpost.com/business/who-will-lead-the-wto-and-help-it-avoid-collapse/2020/07/10/c2676476-c2d3-11ea-8908-68a2b9eae9e0_story.html> (accessed 11 Jul. 2020).

⁶⁰ Terence P. Stewart, *Selecting a new WTO Director-General – “the game is afoot”*; *Mexico’s Jesus Seade Kuri is the first nominee* (Washington International Trade Association, 6 Jul. 2020) <<https://www.wita.org/blogs/selecting-a-new-wto-director-general-the-game-is-afoot-mexicos-jesus-seade-kuri-is-the-first-nominee/>> (accessed 12 Jul. 2020)

⁶¹ Oscar Esparza-Vargas, *Commentary: Mexican Candidacy for Director General of the WTO* (Da Vibes, 6 Jul. 2020) <<https://www.dominicavibes.dm/readers-265971/>> (accessed 11 Jul. 2020).

⁶² Another potential candidate from Africa was Beninese candidate Éloi Laourou. However, it was later decided that nomination of Dr Ngozi Okonjo-Iweala will be sent. Matthieu Millecamps, *Benin drops its WTO candidate in support of Nigeria’s Okonjo-Iweala* (The Africa Report, 15 Jun. 2020) <<https://www.theafricareport.com/29941/benin-drops-its-wto-candidate-in-support-of-nigerias-okonjo-iweala/>> (accessed 11 Jul. 2020).

		building at the international level. ⁶³ She also chairs the Global Alliance for Vaccines. Okonjo-Iweala has a distinct advantage that she is a female candidate and is from an LDC. However, she lacks extensive experience in international trade as compared to some of her competitors. As suggested earlier, this criterion is considered important by WTO Members and may act to her detriment. While she has received the backing of the African Union, it is noteworthy that her backing was objected to by Egypt on the grounds that it violated the AU's rules. ⁶⁴
3.	Mr Abdel-Hamid Mamdouh (Egypt)	Mamdouh served as the Director for Trade in Services and Investment Division of the WTO, and currently works for a top international law firm in Geneva as a Senior Counsel. He played a vital role in the Uruguay Round negotiations. His experience at the WTO may increase his possibility of achieving consensus. However, there may be a possibility that Kenya and Nigeria may not provide consensus to his nomination at the GC to make way for their nominated candidates. His nomination, in fact, is a sign of the fractures in the African bloc, that would otherwise have been expected to project a single candidate for the DG post as a united front. His lack of experience in any ministerial position in any government is also a disadvantage which may hinder his ability to achieve a consensus vote. ⁶⁵
4.	Mr Tudor Ulianoschi (Moldova)	Ulianoschi worked as Minister of Foreign Affairs of Moldova where he gathered vast experience in international relations and foreign trade policy-making. His major accomplishments in international trade include Moldova's ratification of the Trade Facilitation Agreement and the Government Procurement Agreement. He served as Moldova's permanent representative to the WTO, and chaired the Balance of Payments Committee. According to reports, he has excellent negotiation skills in bridging gaps among developed, developing and least-developed countries, as is evidenced from his past experience. Considering Moldova's strong integration policy with the EU, ⁶⁶ and the United

⁶³ Frederick M. Abbott, *World Trade Organization Faces Leadership Battle In Shadow Of Crisis Over Organization's Future* (Health Policy Watch, 12 Jun. 2020) <<https://healthpolicy-watch.news/world-trade-organization-faces-leadership-battle-in-shadow-of-crisis-over-organizations-future/>> (accessed 12 Jun. 2020).

⁶⁴ *The Onward March of Ngozi Okonjo-Iweala to the Headship of the WTO* (This Day, 21 Jun. 2020) <<https://www.thisdaylive.com/index.php/2020/06/21/the-onward-march-of-ngozi-okonjo-iweala-to-the-headship-of-the-wto/>> (accessed 11 Jul. 2020); Chike Olisah, *WTO accepts nomination of Okonjo-Iweala as DG despite opposition from Egypt* <<https://nairametrics.com/2020/06/10/wto-accepts-nomination-of-okonjo-iweala-as-dg-despite-opposition-from-egypt/>> (accessed 11 Jul. 2020).

⁶⁵ Bryce Baschuk, *Race to rescue WTO draws eight nominees from Mexico to Moldova* (Bloomberg, 9 Jul. 2020) <<https://leaderpost.com/pmnl/business-pmnl/race-to-rescue-wto-draws-eight-nominees-from-mexico-to-moldova/wcm/b1ec3289-6ec5-4193-aa77-52b1c71a88da/>> (accessed 11 Jul. 2020).

⁶⁶ *EU relations with the Republic of Moldova* (Council for European Union) <<https://www.consilium.europa.eu/en/policies/eastern-partnership/moldova/>> (accessed 11 Jul. 2020).

		Kingdom's withdrawal from the EU, Mr. Ulianovschi enjoys support from some influential Members.
5.	Ms Yoo Myung-hee (Republic of Korea)	Myung-hee worked in the WTO Affairs department in the Korean Ministry of Trade, Energy and Industry, and as a key negotiator in Regional Comprehensive Economic Partnership, Korea-China Free Trade Agreement, and Korea-US Free Trade Agreement. Her negotiation skills played a crucial role in bringing consensus among countries concerning South Korea's trade initiatives. She has reset the Korean trade policy in light of COVID-19. Her profile in international trade and that she is a female candidate are her strengths. Currently, South Korea is a developed country, ⁶⁷ and has the opportunity to seek support from other developed countries. However, due to South Korea's trade tension with Japan, ⁶⁸ she may face challenges in reaching consensus.
6.	Ms Amina C. Mohamed (Kenya)	Mohamed is the first woman to chair the WTO GC. She also chaired the 10 th WTO Ministerial Conference in Nairobi, ⁶⁹ the Trade Policy Review Body and the Dispute Settlement Body. She also contested for the position of the DG during 2012-13 alongside Roberto Azevêdo. She advocated for new goals in the United Nations Environmental Program. She was at the forefront of the 2005 Hong Kong MC negotiations and preparations, market access waiver for the LDCs, and the amendment to the Agreement on Trade-Related Aspects of Intellectual Properties Rights allowing WTO Members without the capacity to produce pharmaceutical products to import and address public health concerns. Her nationality (Kenya, a least developing country), gender, and most importantly, her major accomplishments through her diverse experience in international trade increases the probability of her achieving consensus. However, due to two other nominations from African countries, she has to overcome regional competition to achieve consensus – an issue already highlighted earlier.
7.	Mr Mohammad Maziad Al-Tuwaijri (Kingdom of Saudi Arabia)	Al-Tuwaijri is a former Economy and Planning Minister and a long-time banker. He holds a Master's in Business Administration. He is unlikely to gather consensus due to his lack of experience in trade negotiations and lack of any work experience with international organizations. Furthermore, considering Saudi Arabia's tension with Canada due to the arrest of civil society personnel, human and women

⁶⁷ Edward White and Song Jung-a, *South Korea caves in to Trump over WTO developing nation status* (The Financial Times, 25 Oct. 2019) <<https://www.ft.com/content/d960eec8-f6d6-11e9-a79c-bc9acae3b654>> (accessed 11 Jul. 2020).

⁶⁸ Troy Stangarone, *Parsing the Economic Damage From the Japan-South Korea Dispute* (The Diplomat, 24 Jan. 2020) <<https://thediplomat.com/2020/01/parsing-the-economic-damage-from-the-japan-south-korea-dispute/>> (accessed 11 Jul. 2020); Kim Tong-hyung, *South Korea to Reopen WTO Complaint Over Japan Trade Curbs* (The Diplomat, 3 Jun. 2020) <<https://thediplomat.com/2020/06/south-korea-to-reopen-wto-complaint-over-japan-trade-curbs/>> (accessed 11 Jul. 2020).

⁶⁹ Frederick M. Abbott, *supra* note 55.

		rights violations, ⁷⁰ intervention in Yemen, ⁷¹ and last but not the least its international disputes with Qatar at the WTO, ⁷² these countries may block Saudi Arabia's nomination, making consensus more unlikely.
8.	Dr Liam Fox (United Kingdom)	He is a former international trade secretary, a prominent supporter of Brexit, and a staunch advocate for multilateralism with first-hand experience in facing political and technical challenges in trade negotiations. ⁷³ His nomination has been criticised on the ground that he delivered very little to the UK concerning Brexit. ⁷⁴ Considering his major advocacy for Brexit, ⁷⁵ it is not known whether the EU Member States will support his candidature.

Source: Collected from various newspaper and trade journal reports

A comparative look at the credentials of those nominated for the DG post has some clear positives. Among the candidates more likely to achieve consensus among WTO members are women and those from LDCs, meaning that some of the obvious demographic gaps that have persisted in the appointment of the WTO DG will likely be addressed this time around. Despite a few obviously underqualified candidates, most of the candidates seem to have experience and demonstrated success in trade negotiations and, most importantly, in international politics and diplomacy. As the next section will show, the road ahead for the successful candidate among these individuals is fraught with deep divides among the WTO members.

The situation will likely be fraught for a while – given its focus on a consensus in decision-making for the appointment of the DG, and the many conflicts that make a consensus on any one qualified candidate considered unlikely.⁷⁶ With the burden then on WTO members to come up with a suitable interim arrangement, there is likely to be some political impact to the working of the WTO, which is already a weakened international institution. This is evident from Members' inability to agree on

⁷⁰ Barry Ellsworth, *Tensions still high between Canada, Saudi Arabia* (AA, 31 Dec. 2019) <<https://www.aa.com.tr/en/americas/tensions-still-high-between-canada-saudi-arabia/1688265>> (accessed 11 Jul. 2020).

⁷¹ *Is Saudi Intervention in Yemen a Turning Point?* (Middle East Policy Council) <<https://mepc.org/commentary/saudi-intervention-yemen-turning-point>> (accessed 11 Jul. 2020).

⁷² Emma Farge & Philip Blenkinsop, *WTO says Saudi broke global rules in Qatar broadcast dispute* (Reuters, 16 June 2020) <<https://www.reuters.com/article/us-trade-wto-saudi-qatar/wto-says-saudi-broke-global-rules-in-qatar-broadcast-dispute-idUSKBN23N2A1>> (accessed 11 Jul. 2020).

⁷³ Joanna Patridge, *UK nominates Liam Fox to lead World Trade Organization* (The Guardian 8 Jul. 2020) <<https://www.theguardian.com/world/2020/jul/08/uk-nominates-liam-fox-world-trade-organization>> (accessed 11 Jul. 2020).

⁷⁴ *Liam Fox to be nominated by UK to lead WTO* (Express & Star, 8 Jul. 2020) <<https://www.expressandstar.com/news/uk-news/2020/07/08/liam-fox-to-be-nominated-by-uk-to-lead-wto/>> (accessed 11 Jul. 2020).

⁷⁵ *Who is Liam Fox* (The UK in a changing Europe) <<https://ukandeu.ac.uk/fact-figures/who-is-liam-fox/>> (accessed 11 Jul. 2020).

⁷⁶ Steve Charnovitz, *Searching for the Next Leader of the WTO* (International Economic Law and Policy Blog, 19 May 2020) <<https://ielp.worldtradelaw.net/2020/05/searching-for-the-next-leader-of-the-wto.html>> (accessed 12 Jul. 2020); Dmitry Grozoubinski, *What do you need to know: The WTO Director-General's Resignation* (Borderlex, 14 May 2020) <<https://borderlex.eu/2020/05/14/what-do-you-need-to-know-the-wto-director-generals-resignation/>> (accessed 12 Jul. 2020); Frederick M. Abbott, *supra* note 55.

the appointment of one of the deputy DGs as interim DG until a permanent appointment is made. Thus, while Members have agreed to extend the tenure of the deputy DGs,⁷⁷ the WTO will be left without a functioning leader until a permanent appointment is made. Without a legitimate WTO DG, the multilateral trade body will have to confront an unsustainable political vacuum in a highly polarised world. Whoever is selected, therefore, the focus of WTO members should be on building consensus around a single, qualified candidate, and ensuring a return to the smooth functioning of the WTO on a priority basis.

V. CONCLUSION – A ROADMAP FOR THE FUTURE

The differences that have paralysed the relatively uncontroversial process of selecting a new DG of the WTO are symptomatic of the deeper fissures and problems that have created serious challenges to the WTO and the multilateral trading order. Given the extensive soft power wielded by the DG, and the DG's role in consensus-building as was highlighted in this paper, whoever succeeds Mr. Azevedo will have a tough task at hand. This is the only way for the WTO and an international rules-based system to re-assert and re-establish its old glory. It will not be an understatement to add that the future of the WTO and the rules-based trading order rests on the shoulders of the next DG. Thus, the following issues may be considered a priority for the incoming DG.

1. Support ongoing multilateral negotiations

The WTO is a forum for both international dispute resolution and multilateral negotiations. Concluding multilateral trade negotiations was WTO's greatest challenge. However, there are some important negotiations at the WTO like the fisheries subsidies negotiations (which have been an ongoing matter of controversy for a long time).⁷⁸ Similar multilateral negotiations will likely come up in the context of the common global response to COVID-19 and the common challenges that States will face in that regard. When faith in the WTO as a dispute resolution forum is waning, an important priority for the next DG will be supporting these multilateral negotiations. A successful outcome to these negotiations will reinvigorate the belief in the multilateral trading system and in the WTO's role as a key forum for trade negotiations. The DG's soft power will go a long way in fulfilling this task.

2. Addressing specific grievances

The United States has articulated some of its concerns with the WTO. For instance, it has justified its blocking of appointments to the Appellate Body on the ground that the AB has exceeded the authority it was conferred under the DSU.⁷⁹ Similarly, in a joint statement with the EU and Japan,⁸⁰ it raised a raft of issues that it wishes to address, for instances, market-orientation principles in trade

⁷⁷ *General Council agrees guidelines for final stage of DG selection* (WTO News, 31 Jul. 2020) <https://www.wto.org/english/news_e/news20_e/gc_31jul20_e.htm> (accessed 17 Aug. 2020).

⁷⁸ *Negotiations on Fisheries Subsidies*, WTO <https://www.wto.org/english/tratop_e/rulesneg_e/fish_e/fish_e.htm> accessed August 29, 2020.

⁷⁹ *United States Continues to Block New Appellate Body Members for the World Trade Organisation, Risking Collapse of the Appellate Process* (2019) 113 AJIL Unbound 822.

⁸⁰ *Joint Statement of the Trilateral Meeting of the Trade Ministers of Japan, the United States and the European Union* (14 January 2020, Washington DC) available at <https://trade.ec.europa.eu/doclib/docs/2020/january/tradoc_158567.pdf> accessed August 29, 2020.

rules, treatment of state-owned enterprises specifically in the context of China. These specific concerns will have to be addressed to ensure the United States' continued participation in the WTO. The threat of withdrawal may not be real; however, a resolution to that effect was recently introduced in the United States Senate.⁸¹ The DG will have to play an active facilitative role in ensuring that these differences are ironed out and that the United States' engagement with the WTO is ensured. At the same time, the new DG will have to ensure that the concerns of the Developing countries are properly addressed and not sacrificed to assuage the concerns of a Member. In conjunction with this, the DG will have put an end to the increasing tendency to declare trade wars and impose unilateral tariffs. The rule based multilateral trading system has to survive for the interest of all. The DG will have the task of bringing the US and China to the negotiating table on these issues and resolve their conflict within the bounds of the WTO rules.

3. Transparency and co-operation

As highlighted earlier, restoring transparency during and in the immediate aftermath of COVID-19, should be a matter of great priority.⁸² Continued transparency on trade measures is crucial, and the next DG will have to get the Membership fully commit to this principle. This will get increasingly challenging, as trade restrictions, subsidies, non-tariff measures, etc., will get more complex and widespread as the economic impacts of COVID-19 are felt in the short, medium and long term. Transparency initiatives should be the starting point for increased multilateral cooperation on State response to COVID-19.

4. Support binding WTO dispute settlement

An important task for the next DG will be to restore the proper functioning of the dispute settlement system including the appeal mechanism, widely referred to as the 'crown jewel' of the WTO system. A large part of this restoration will require soft power-based diplomacy, so as to understand what concerns the United States and others have had with the Appellate Body, and work towards a model that better satisfies the collective vision of WTO members for international trade litigation. However, in the interim, there are other actions that must be taken by the DG. For instance, a group of WTO members have created the 'Multi-party interim appeal arbitration arrangement' (MPIA) under Article 25 of the DSU. This is a mechanism that allows signatories to preserve binding WTO dispute settlement by providing consent to an arbitral tribunal (composed from a nominated panel of arbitrators) to hear appeals from panel rulings.⁸³ This will ensure that such Members cannot 'appeal into the void' and paralyse the entire dispute resolution process.

The MPIA is a clear sign that many WTO members remain committed to binding dispute resolution and the rule of law in the international trade regime. The MPIA is an ad hoc mechanism and cannot be new substitute for a standing Appellate Body. Additionally, it is noteworthy that the MPIA arbitrators will currently be expected to operate without any secretarial support, since the WTO

⁸¹ *Senator Howley Introduces Joint Resolution to Withdraw from WTO* (May 7 2020) available at <<https://www.hawley.senate.gov/senator-hawley-introduces-joint-resolution-withdraw-wto>> accessed August 29, 2020.

⁸² *COVID-19 and World Trade*, WTO available at <https://www.wto.org/english/tratop_e/covid19_e/covid19_e.htm> accessed August 29 2020.

⁸³ European Commission, *The WTO multi-party interim appeal arrangement gets operational* (3 August 2020) available at <<https://trade.ec.europa.eu/doclib/press/index.cfm?id=2176>> accessed August 29 2020.

Secretariat has not participated in any way in the MPIA's functioning.⁸⁴ This is a regrettable position and could further weaken the Secretariat. In any case, the MPIA has to work within the overall WTO system to ensure the integrity of the multilateral system.

5. Implementing WTO reforms

Looked at more generally, the new DG will have to face up to significant challenges. A majority of global trade today takes place in intangible services and data traded over the internet. Digital divide will be major concern of the future. The General Agreement on Trade in Services (GATS) considered as an agreement with significant market liberalising potential is yet to achieve its potential. Furthermore, covered agreements such as the Agreement on Agriculture need to address different forms of trade distortion and ensure that domestic distortions are not captured using outdated concepts and data.

6. Being an unabashed champion of free and fair trade

As is the case with most economic crises, the world is witnessing a sharp turn towards protectionism and inward economic thinking and planning as a response to COVID-19. While the WTO rules allow States to balance their trade and non-trade objectives with exceptions and carve-outs, protectionism stands fundamentally contrary to what the WTO stands for. The next DG must be a defender of free trade in these trying times, while ensuring equity between the haves and the have-nots. As the head of the WTO, the DG represents not just the institution, but the ideology that the institution stands for and is built to protect. Whoever is appointed as DG must discharge this duty effectively.

⁸⁴ *Id.*