

COMMENTS ON THE HINRICH FOUNDATION SURVEY ON WTO REFORM

FRIENDS OF MULTILATERALISM WEBINAR

Sherry Stephenson – 2 June 2025

Thank you. I would like to applaud the initiative of the Hinrich Foundation to carry out this survey and appreciate the presentation of its results by Dr. Chun Wei Yap. The results confirm what we all have known for quite some time; the WTO is in need of reform. It is not working well. The WTO is in many ways in 'stasis' and has not been able to progress on two of its three main pillars – that of negotiating trade liberalization – and now the settlement of disputes as well. It lacks flexibility to adapt its rules and has thus not been able to cope with the new trade realities of the digital world. It can be taken hostage on any issue by just one of its 166 current members.

This problem is not the fault of the WTO but rather the inadequacy of the system within which the WTO functions. It is the system that needs rethinking and reform. The WTO as an organization is the result of history– the way that it came into existence – and of the behavior, attitude and rules put together by its members. The WTO inherited its way of functioning from the GATT, a much smaller organization that operated under 'gentleman's rules' and in a congenial, problem- solving manner, primarily among like-minded diplomats and countries at similar levels of development. This changed dramatically with the transformation into the WTO, a significant increase in membership (31% since 1995) and in the number of issues before the organization. But these changes were not accompanied by a change in the way the organization operated. And the operational structure the WTO inherited has not proved up to the task. This leads us to the question of whether the system within which the WTO operates can be reformed independently of the organization itself. In my mind this is a key question.

The WTO lacks a Board of Governors like the IMF and the World Bank, as well as an Executive Board or Boards to carry out everyday tasks. The WTO does not vote on issues. Although voting is allowed, it was never put into practice, which is important with a diverse membership. The WTO lacks a means to approve budgetary increases in a timely manner, and the rules adopted by the WTO and the practices it follows do not give it the flexibility to adapt to change, both institutional and topical. And then there is the issue of non-market economies trying to fit into a system of rules that was designed for market-based economies. This is quite a litany of serious problems, and if one could take the WTO's temperature, it would surely be seen as having a high fever with no aspirin in sight.

Back to the survey. Its breadth is impressive, having obtained over 27,000 respondents from five geographical areas, a remarkable response. So, we can be fairly certain that the opinions it reflects are representative and widely held. This lends credibility to the survey results and the need to take them seriously. And it underscores that this overdue process has now become urgent if the WTO is to remain relevant as the third Bretton Woods post-war institution, the one responsible for international trade relations.

Many of the results in the survey we suspected already. But they have importantly been confirmed. An overwhelming percentage of respondents from around the world feel that the WTO at present has serious problems in the following areas;

- 1) The practice of consensus for decision-making, which many feel is the most serious issue impeding the WTO from forward progress.
- 2) The absence of a fully functioning dispute settlement process.
- 3) The lack of a definition of what is a developing WTO member and therefore how S&D treatment should be applied. [Note: The World Bank and the IMF both

deal with development issues and/or make loans to developing countries. Both have definitions of developing countries. The WTO does not]

- 4) The rigid application of the MFN principle.
- 5) The need to update WTO rules to adapt to new trade realities such as e-commerce, digital trade, investment, environmental issues and others.

These are all very important. I would have liked to see a question in the survey on the ranking of priorities among the issues included.

Additionally, in my view, there are three key questions that the survey did not ask, and which would have been included in my wish list. These are:

1. Can the WTO be reformed in its current state or will it be necessary to rethink the WTO in the context of a new organization?
2. To what extent has the absence of a Board and a strong executive function contributed to the WTO's inability to move forward on its key mandates?
3. Can WTO rules conceived to deal with market economies be adapted to effectively cover / discipline the practices of mixed or non-market economies?

Since we do not know what the answers to these questions would have been, it is impossible to comment upon the respondents' views. But these are questions that will have to be answered as we move forward in the discussions of reform.

The survey likewise does not address the question of HOW WTO reform should be carried out in these areas. While more than 82% of the respondents said that the WTO needed reform, we need to find out more about what this reform should be and what it should contain. This is sort of like the parable of the blind men (or women) and the elephant.

Each person examines one part of an elephant, and each one comes to a very different conclusion as to what an elephant is. They are all partly right, but also all entirely wrong as they cannot see the elephant comprehensively.

The call for WTO reform seems to me a little like examining the elephant. Everyone knows that it is a big object; but each one has a different perspective or point of view. In a similar fashion, many knowledgeable people and experts have put forward different proposals for WTO reform, including several during the sessions that the FMG has organized to discuss this topic. With emphasis on one aspect or another. Many assign blame to the consensus practice. Others to the lack of leadership. Others point to the lack of a definition on what is a developing country and therefore who qualifies for S&D treatment. Others to the absence of being able to settle disputes and thus a lack of confidence in the application of trade rules. And so on. Each one is valid on its own, but a full and lasting package of reforms will need to be comprehensive to be effective.

The current Director General of the WTO has called for comprehensive reform. And this before MC14 in March 2026. But no action towards this seems to be underway. She specifically proposed to convene an independent panel of “eminent persons” to start off the discussion of this reform process. However, her proposal was opposed by one member at the WTO General Council meeting last February and thus not approved. The WTO continues in a state of ‘stasis’ even as the world of trade becomes increasingly complex with the present shift towards unilateralism and away from multilateralism by the United States.

The answers to the survey do not provide us with any clues for these blind men (and women). But they do provide evidence and justification for the efforts that will be necessary to undertake the reform task. So, the survey is very important to lend urgency to this, but must be seen as the first step in a long process, perhaps similar to the process that established the GATT or that transformed the GATT into the WTO.

We know the questions reform will need to address. But we still need to define HOW to go about it, WHAT reforms should contain, and the FORM and BODY in which they should be codified.

We also need to define who will initiate this process.

Maybe I can just say a few more words here, drawing from the previous FMG sessions that have discussed WTO reform.

As we are all very aware, we are currently in a very difficult situation of geopolitical tension, uncertainty, and growing polarization. WTO rules have been flagrantly broken or ignored by one of the major trading countries, and others are trying to decide how to cope with constant change and an onslaught of discrimination. There is felt to be a void of leadership at present in the trading system, which is not being filled from within or by the G20.

Many valuable ideas and proposals have been put forward by FMG members in the form of books, papers or blogs over the past few weeks and months as the question of WTO and systemic reform has come to the forefront. Opinions have been expressed by FMG members in the previous sessions held by the group dedicated to discussion of the topic.

- Some FMG experts believe that the WTO can do little in the current situation of disregard for the MFN principle by the United States and the lack of a functioning dispute system. However, they emphasize the importance for the remaining WTO members to continue to adhere to the rules and express their belief in the importance of a non-discriminatory, stable, and predictable multilateral trading system. Also, to re-iterate publicly their support for the WTO and the rules-based trading system, highlighting the benefits that it has brought to its members and the world economy. Their emphasis is to 'hold tight' for the present until the future brings better days.
- Several FMG experts feel that this is an important time to start discussions of reform, but not within the WTO, as these will likely go nowhere. The suggestion of initiating reform talks outside of the WTO jointly by the EU and the CPTPP members has been floated by several.
- Some FMG experts feel that reform discussions, proposals and action can take place within the WTO at the appropriate moment – perhaps after a change of U.S. Administration in four years' time, depending upon the political situation at that time.
- However, others feel that it might be preferable and more fruitful to think of constructing an entirely new organization that would replace the WTO, contain updated rules, a more effective organizational system and greater flexibility. This would involve starting over again and designing the system among like-minded

countries, although the composition of these would be very different from what it was previously. I would caution that before heading down this path, a serious evaluation should be undertaken of the benefits and costs of 'starting over' in a new context. Would reform without some major trading partners be lasting? Would this effectively convert the WTO into a big plurilateral trade agreement instead of a multilateral institution?

We are still very much like the blind people, all groping for part of a solution to add to the whole picture of WTO reform. How this will be done, in what manner, and over what period of time, are questions the survey did not deal with, as they are complicated and multi-faceted. But they are critical. They are also beyond my ability to see into the future. What is certain is that we need to think seriously about them, start taking action to discuss them, and develop initiatives in the appropriate places to move them forward. Or we will be left without an effective third leg of our post-war Bretton Woods system.

Thank again to the Hinrich Foundation for this survey which gave us not only such useful results but also prompted these reflections, a call to action, and today's discussion.