



**SVENSKT NÄRINGSLIV**  
SWEDISH ENTERPRISE

# Confederation of Swedish Enterprise's priorities for the WTO in 2021 and beyond

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## Executive summary

The World Trade Organization (WTO) is the primary forum for global trade policy. The WTO agreements guarantee rule-based trade and investment and create predictability and transparency for international trade. The WTO rules and principles have delivered tremendous benefits for trade between the members, which in turn has created jobs and prosperity and contributed to poverty-reduction around the world. However, the organization needs to be reformed and modernized in several ways to function better. In this paper, the Confederation of Swedish Enterprise wants to highlight our priorities for the WTO in 2021 and beyond. Below is a summary of our priorities and proposals.

- Multilateral solutions and agreements should be supported and be the aim where possible. At the same time, negotiations on open, plurilateral agreements should be supported and pursued in areas where multilateral consensus is not possible.
- The WTO Secretariat should be given a stronger mediator role and be a driving force in negotiations. The Secretariat should be given greater mandate to be proactive by launching new initiatives and developing compromise proposals during negotiations, as well as regularly obtaining the views of stakeholders.
- WTO members should make commitments in line with their actual level of economic development and capacity. Special and differential treatment should be applied on a case-by-case basis, adapted to individual countries' needs for longer implementation periods and support, instead of giving countries exemptions from commitments.
- New forms of closer co-operation between WTO members and the business community must be found. Consultation procedures should be established to obtain the views of the business community in a structured and more regular manner. This can be done by setting up an advisory body to the WTO, through more regular Trade Dialogues and consultations on specific negotiations.
- The WTO should continue to devote extra effort to support the position of small and medium-size enterprises in international trade. Efforts of the working group for Micro, Small & Medium Enterprises (MSME), should continue and result in concrete measures and information initiatives.
- Restore a functioning dispute settlement system. The WTO's Appellate Body needs to be reformed to ensure it functions better in future. Work should build on existing proposals and include measures to ensure that deadlines are met, and to establish a committee for regular dialogue between WTO members and the Appellate body.



- Not only has global trade grown rapidly since the establishment of the WTO, but it has also changed in many ways. New rules are needed in areas such as digital trade and industrial subsidies. An agreement on fisheries subsidies must be put in place as soon as possible. The negotiations on investment facilitation should also be concluded.
- The plurilateral negotiations on an e-commerce agreement must be prioritized by WTO members. It is important that the agreement contains rules on data flows and data localization requirements, duty-free access for electronic transmissions, transfer of source code, paperless trading procedures, and electronic signatures and contracts. The agreement should also result in improved market access.
- Compliance with existing rules on industrial subsidies should be improved. This could be done by strengthening notification obligations to increase transparency and by sanctioning countries that do not comply with these requirements. To counteract market distortions, other types of subsidies should be included as prohibited subsidies, and rules on state-owned enterprises need to be developed.
- Negotiations to liberalize trade in services and improve the regulatory framework in areas such as telecommunications services, financial services, transport services, environmental services, and personal mobility should be resumed and concluded.
- Formal negotiations on an agreement on medical products should be initiated to facilitate trade in medicines, vaccines, medical technology, and protective equipment. This would also be positive after the pandemic and to improve health globally.
- It is important to start more formal discussions on how to facilitate trade in goods and services that can contribute to a better environment and support a circular economy.

## WTO guarantees rule-based international trade and investment

The World Trade Organization (WTO) is the primary forum for global trade policy. The WTO agreements GATT (goods), GATS (services), and TRIPS (intellectual property rights) form the basis for and guarantee rules-based international trade and investment. The organization's agreements and rules apply to 164 countries and create predictability and transparency for companies engaging in international trade. Being a member of the WTO creates positive trade effects for countries. A study by the National Board of Trade Sweden suggests that the effect of WTO membership on world trade is significant and on average has a greater effect on trade than free trade agreements.<sup>1</sup>

However, the WTO is under pressure and facing criticism from various quarters. In many countries, the COVID-19 pandemic has resulted in the introduction of trade barriers, with discussion increasingly shifting towards autonomy and reshoring production rather than improving and developing international rules. Since December 2019, the WTO's Appellate Body has been incapable of functioning. Many WTO negotiations have stalled, especially those regarding market access. Another challenge is the lack of established co-operation between the WTO and the business community and the fact that the business community has weak incentives to participate in the work of the WTO, despite the organization's *raison-d'être* being to facilitate international trade between businesses.

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The National Board of Trade Sweden (2019). "The trade effects of EU regional trade agreements – evidence and strategic choices."

The WTO should continue to be a forum for trade negotiations, trade policy co-operation, and trade dispute resolution between countries. Trade will be crucial in promoting sustainable economic recovery and enabling companies to rebuild value chains that have been adversely affected by the crisis. However, the organization needs to be reformed and modernized in several ways to function better. The EU – and Sweden – should be driving forces of reform. In this paper, the Confederation of Swedish Enterprise wants to highlight our priorities for the future of the WTO.

# 1 Facilitate multilateral and plurilateral negotiations

Achieving consensus in an organization where its members have different interests and levels of economic development has proved to be a major challenge for the WTO for many years. Several negotiations within the WTO have stalled, especially with regard to market access, where countries have difficulties agreeing on common rules. It is therefore important to find ways to facilitate multilateral solutions, as well as options to proceed with plurilateral negotiations when multilateral are not possible.

## 1.1 Support negotiations on open, plurilateral agreements where multilateral solutions are not possible

Multilateral solutions are the best and most desirable, but this ambition should not stand in the way of other objectives. The principle of “single undertaking”, which means that nothing is agreed until everything is agreed, has prevented countries that wish to move forward from doing so. As it has proved difficult to start and conclude multilateral negotiations, groups of WTO countries have moved forward with plurilateral initiatives. By negotiating specific issues with a limited number of willing countries, negotiations can go faster than multilateral processes. Plurilateral agreements can pave the way for the extension of rules to new areas. As long as they are structured in an open way that enables other to join, they do not need to replace multilateral agreements but can complement them. Plurilateral solutions are therefore a way to develop new rules in areas where multilateral support does not exist.

## 1.2 Strengthen the role of the WTO Secretariat

The WTO Secretariat supports WTO member governments and is chaired by the Director General. As decisions can only be taken by members, the Secretariat has no decision-making powers. Its tasks include providing technical and professional support to the various Councils and Committees of the WTO, providing technical assistance to developing countries, and monitoring and analysing developments in world trade.

The WTO Secretariat should be given a stronger role as a mediator and a driving force in negotiations. The Secretariat could be more proactive than it is today by, among other things, launching new initiatives, developing compromise proposals during negotiations, and gathering views from the business community. Additional resources will have to be provided to the Secretariat to do this.

## 1.3 Revise special and differential treatment (SDT) of developing countries

Most WTO agreements allow flexibility for developing and least developed countries (LDCs) in accordance with the provisions on special and differential treatment (SDT). This relates to technical assistance and capacity building as well as transition periods

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to implement rules for developing countries and LDCs. This principle should be used in more agreements. However, it is important that members take responsibility and make commitments at a level that reflects their actual degree of economic development and capacity. While there is a concrete definition of what constitutes an LDC, each country decides for itself if and when it wants to be defined as a developing country. This has led some countries, despite being well-developed economies, to call themselves developing countries so as to enjoy the benefits that should be reserved for other countries that really need them. The categorization of countries as either a developing country or a developed country no longer serves its purpose but reflects an overplayed worldview. However, LDCs should continue to be treated in the same way as they are today.

WTO members should take responsibility and make commitments more in line with their actual economic development and capacity. Special and differential treatment should be applied on a case-by-case basis by sector or agreement, designed according to individual countries' needs for longer implementation periods and support, instead of giving countries pure exemptions from commitments. Technical assistance and capacity building must be central components to enable broader uptake. The system should strive for less special treatment but more support to developing countries so that they have opportunities to participate in world trade on the same terms as more developed countries.

## 2 Establish closer co-operation between the WTO and business

A challenge for the WTO is the lack of established co-operation with non-state actors, especially the business community. There is currently no established structural system for obtaining the views of the business community on various issues, despite the fact that it is businesses that are subject to new rules. It is therefore of the utmost importance that companies are involved in the rule-making process. Another aspect is that many businesses have limited knowledge of the WTO. Often, businesses are unaware that they do not have to deal with trade barriers due to the WTO's efforts to remove trade barriers and mediate trade disputes. It is therefore important to build understanding and trust in the WTO among businesses. This should be done through greater transparency and closer co-operation between the WTO and the business community.

### 2.1 Find new ways to establish structured consultation with business

New forms of structured and regular co-operation between the WTO and the business community need to be established. If this is not done, the risk is that rules that are negotiated will fail to reflect the realities facing businesses. New consultation procedures, partly building on ongoing initiatives, should therefore be created and enhanced to obtain the views of the business community. This could be done by setting up an advisory body with business representatives, through more regular Trade Dialogues, consultations on special negotiations, hearings in conjunction with negotiation rounds, and workshops on specific areas and issues. Another idea is to organise a business summit before or in the margins of the WTO Ministerial Conferences.

The WTO Secretariat should be given a clear mandate and sufficient resources to obtain the views of stakeholders on a regular basis. A platform/website where companies, business organizations, and civil society organizations can register is also needed.

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This can be used as a forum for the WTO to regularly share information about negotiations and invite parties to dialogue. Small and Medium-sized Enterprises (SME) and businesses from developing countries should be encouraged to contribute to this process. Another way to strengthen transparency and business participation in WTO issues would be to involve the business community in the Trade Policy Review Mechanism process, i.e. the regular reviews of WTO members' trade policies.

## 2.2 Continue specific support for small and medium-sized businesses

Small and medium-sized businesses are often hit harder by trade barriers than larger companies and they often have even less knowledge of how they can benefit from trade regulations. The task of the informal working group on MSMEs, (Micro, Small & Medium-sized Enterprises), should continue and result in concrete measures and information initiatives that can help small and medium-sized businesses in their international trade. The Secretariat could be given a special mandate to obtain information and views from MSMEs.

# 3 Restore a functioning dispute settlement system

One of the WTO's main achievements is the creation of its dispute settlement system, which allows WTO members to lodge complaints about alleged breaches of WTO rules and to seek compensation. The system is crucial for maintaining trade rules and thus ensuring that trade flows smoothly.

However, since December 2019 the Appellate Body of the dispute settlement system has not functioned. The reason is that the USA has been blocking the appointment of new judges due to its concerns over the functioning of the body. This has led to the dispute settlement system being deadlocked as no decisions can be appealed. The interim solution that the EU has concluded with Australia, Brazil, Canada, and China, among others, is a temporary emergency solution, but a permanent solution that applies to all WTO countries must be reached.

The WTO's dispute settlement system should be retained, but it needs to be reformed to work better in the future. Without a functioning dispute resolution system, a key component of the organization's aim to be an independent broker in trade disputes is undermined. The new Director-General of the WTO should therefore, immediately upon taking office, make a renewed push to reform the Appellate Body. These efforts could build on proposals made by the EU and others and by Ambassador David Walker and should include:

- The introduction of measures to ensure that the 90-day deadline can be met. It is common that the Appellate Body cannot meet the 90-day time limit for reaching appeals decisions. To solve this, several measures may be needed. Rules on the time limit should be kept, unless the parties agree with the Appellate Body to extend the time limit in cases which are unusually complex or during periods with numerous appeals. Other or complementary alternatives could be to increase the number of judges, extend the time of judges' appointments, or ensure that judges are employed full time.

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- Clarify the rules for when judges can remain on a case after their term of office has expired. Criticism has been levelled at judges remaining in office after their terms expire. Clearer rules stating the circumstances under which a judge may remain to complete cases initiated during a judge's term may be one of the solutions.
- Clarify rules relating to review and interpretation. Pursuant to Article 17 of the Dispute Settlement Understanding (DSU), the Appellate Body must consider each of the issues raised in an appeal. A change could be made so that only aspects and issues that are necessary to solve a case should be addressed. This could also increase the chances of reaching the 90-day deadline.
- Establish a committee of regular dialogue between WTO members and the Appellate Body to discuss issues of interpretation and precedent and to ensure compliance with agreed principles.

## 4 Negotiate new rules adapted to business realities

The WTO rulebook should be updated, as new rules are needed in a number of areas. Not only has world trade grown rapidly since the formation of the WTO, but it has also changed in many ways. Global value chains, digitalisation and technological development, the greater role of trade in services and servicification of manufacturing have all transformed trade and continue to do so. However, WTO rules have not kept pace with these changes. For example, there are no specific rules for digital trade in existing WTO agreements. The climate, and the entire sustainability agenda, is increasingly affecting trade and trade policy, and the WTO could do more to support trade in ways that promote sustainability.

It is therefore important that new rules are negotiated for, among other things, digital trade, trade in services, investment and industrial subsidies. An agreement on a ban on fisheries subsidies, which contribute to unsustainable fishing practices, should be put in place as soon as possible. This is important from a sustainability perspective, to show that the WTO can deliver new rules and to create momentum to move forward on other negotiations. It is also desirable to conclude the plurilateral negotiations on investment facilitation, with the aim of facilitating investment by making conditions and rules more transparent and streamlining administrative procedures

### 4.1 Conclude the plurilateral negotiations on an e-commerce agreement

Members should prioritize plurilateral negotiations on an e-commerce agreement. It is important that the final agreement contains rules on data flows, a permanent ban on customs duties on electronic transmissions, rules against forced transfer of source codes, as well as electronic signatures and contracts. In addition to new rules, it is essential that the agreement also results in improved market access for services, such as telecommunication and data services, and includes commitments to join the Information Technology Agreement (ITA) and its expansion. A particularly important issue for the business community are rules that guarantee that data can be moved across borders and that data localization requirements are prohibited. The business community is urging negotiators to find a common solution that guarantees data flows and removes unnecessary and unjustified digital barriers.

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## 4.2 Improve compliance with rules on industrial subsidies and open negotiations on new rules

The issue of how subsidies are handled will become increasingly acute in the wake of renewed focus on subsidies to support affected companies and economies around the world in the aftermath of the pandemic. Discussions between the EU, the USA and Japan on rules to address market distortive practices in the area of industrial subsidies, the role of state-owned enterprises (SOEs), and forced technology transfers should be taken to the next step and proposals put forward for discussion with other WTO members. The aim should be to strengthen compliance with current rules through stronger notification obligations to increase transparency and by sanctioning countries that do not comply with the requirements. To counteract market distortions, it is important that other types of subsidies are added to the prohibited subsidy category in the WTO agreement on Subsidies and Countervailing Measures (SCM Agreement). Furthermore, subsidies for services must also be covered by new rules. The term public body should also be given a clearer definition in WTO rules.

If it is not possible to update the SCM Agreement, negotiations on a new, plurilateral agreement on industrial subsidies should be started. It would be positive to include as many countries as possible that in the future can become major players on the global market. It is therefore important to work to find suitable incentives to include as many countries as possible.

## 4.3 Resume negotiations on trade in services

Negotiations to liberalize trade in services and improve the regulatory framework for services in areas such as telecommunications services, financial services, transport services, environmental services, and personal mobility should be resumed and concluded. A resumption of the TiSA negotiations, or a similar agreement, would therefore be positive.

The negotiations on domestic regulations for services aimed at improving transparency and streamlining approval procedures, for example qualification and licensing requirements, for services providers are positive and should be completed.

## 4.4 Open formal negotiations on an agreement on medical goods

We welcome the Ottawa Group's *Trade and Health Initiative*, which calls on WTO members to increase their co-operation and work for global rules to facilitate trade in vital medical supplies. An agreement that facilitates trade in medicines, vaccines, medical technology and protective equipment. This would also be positive after the pandemic and to improve health globally. Such an agreement should include commitments not to use export restrictions and to abolish import tariffs on health-related products.

## 4.5 Facilitate trade in goods and services that can contribute to a better environment and support a circular economy

Discussions on facilitating and strengthening trade in goods and services that contribute to a better environment and climate are to be welcomed. Members should also discuss how trade can help promote the circular economy. The next step would be for discussions to lead to more formal negotiations. These should take a holistic approach to removing tariffs on goods and barriers to trade in services, as well as establish forums for regulatory co-operation on how the circular economy can be developed without being hampered by national solutions.



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## 5 Summary of proposals

### Institutional issues

- Support negotiations on open, plurilateral agreements where multilateral solutions are not possible
- Strengthen the role of the WTO Secretariat
- Revise special and differential treatment (SDT) of developing countries
- Find new ways to establish structured consultation with business
- Continue specific support for small and medium-sized businesses
- Restore a functioning dispute settlement system

### New rules

- Conclude the plurilateral negotiations on an e-commerce agreement
- Improve compliance with rules on industrial subsidies and open negotiations on new rules
- Resume negotiations on trade in services
- Open formal negotiations on an agreement on medical goods
- Facilitate trade in goods and services that can contribute to a better environment and support a circular economy
- An agreement on fisheries subsidies should be put in place as soon as possible
- Bring negotiations on investment simplification to a conclusion

