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THE EROSION OF GLOBAL TRADE RULES: IMPACTS ON DEVELOPING NATIONS

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1. Introduction

The current Trump administration's erratic tariffs have thrown international trade into sharp focus with all countries affected, but international trade as a byproduct of international cooperation has for a long time been caught in geo-political headwinds to the detriment of developing nations. This report will examine the breakdown of global trade rules, particularly the World Trade Organization (WTO) system, and analyze its limiting effects on developing nations. The paper will also focus on the effects of the US-China trade breakdown, and the implementation of measures such as the Carbon Border Adjustment Mechanism (CBAM). Using these instances as case studies, this report will argue that while the previous system of international cooperation had its flaws, the emerging alternatives create fragmentation and conflicting obligations that pose even greater challenges for poorer nations. The central question guiding this analysis is whether the current fragmentation of global trade rules is a permanent shift, or if countries will eventually return to multilateral collaboration.

2. The Collapse of the WTO

2.1. From ITO to GATT, to the WTO

Billed as “a crucial building block for global economic governance,” the World Trade Organization (WTO) was established in 1995 at the tail-end of the Cold War.¹ Its successor, the General Agreement on Tariffs and Trade or GATT emerged in 1947 from arrangements at the Bretton Woods Conference of 1944 which overall sought to provide stability in international monetary and financial flows through the creation of the International Monetary Fund (IMF) and the World Bank. A third complementary organization that was suggested, the International Trade Organization (ITO) was left unrealized due to the US Senate's failure to ratify the Havana Charter to bring about the organization.² Instead, GATT was the fall back, which was less an institution with member states and more of a contract which countries were party to with provisional rather than definitive commitments.³ The rationale for GATT was to reduce tariffs and prevent protectionism from destabilizing the postwar global economy. What had been meant as an interim measure, GATT evolved over nearly 50 years into the WTO, creating not only a forum for multilateral trade

¹ Craig VanGrasstek, *The History and Future of the World Trade Organization* (Geneva: WTO Publications, 2013), 11.

² Ibid, 12.

³ Ibid, 12.

arrangements but also a dispute settlement system, erstwhile robust, that provided binding decisions on disputes related to trade.⁴

2.2. Structure and Membership

Economic blocs as well as states are able to join the WTO.⁵ For instance the European Union (EU) as well as the 27 countries that constitute the EU are all members of the EU. Current membership of the WTO includes 166 states and territories with 22 potential members seeking accession.⁶ The WTO operates on a core set of rules in the form of WTO Agreements including GATT and General Agreement on Trade in Services (GATS). The WTO's secretariat led by a Director-General provides administrative and technical support to its members.⁷ However, it has no commission to enforce rules, and as a multilateral organization that seeks consensus, it requires all members to agree on decisions, meaning all members have veto power, which has proven to be challenging.⁸ Nonetheless, insofar as the one member-one vote arrangement, the WTO is a rarity as organizations such the World Bank or the IMF are overwhelmingly skewed with its quota system for voting.

2.3. The US and the Appellate Body Blockade

The rules-based global trading system, promoted largely by the US in the postwar era, has over the years shifted profoundly. The WTO was written about as being in crisis as early as 2000, only five years into its inception.⁹ The US no longer champions an open international trading system and no longer fully supports the WTO, and has, in fact, crippled its key machinery. As Wolff notes, the credibility of the WTO has been steadily undermined as its leading architect has distanced itself from the institution.¹⁰ A significant contribution to this crisis has been the domestic waning of support for multilateralism within US politics where the larger nationalist reaction against multilateralism can be seen in light of Rodrik's "trilemma of the world economy" in which "complete international economic integration, national sovereignty and democracy cannot coexist".¹¹ Wider integration through trade has led the US to feel it has conceded too much, especially towards Chinese growth. So, as US policy vis-à-vis the world is now colored by its jostling for position with China, multilateralism has been a casualty.¹²

The Appellate Body of the WTO is a key pillar of its dispute settlement system. It is the final stage of the WTO's two-step arbitration mechanism, enabling states to appeal panel rulings and ensuring consistency in the interpretation of trade rules. Since 2019, however, the US has actively obstructed the appointment and reappointment of Appellate Body members (membership is for 4 years) by weaponizing the consensus requirement for decision-making, reducing its roster below

⁴ Georgetown Law Library, "Guides: International Trade Law Research Guide: From GATT to the WTO: An Overview," Georgetown.edu, November 5, 2024, <https://guides.ll.georgetown.edu/c.php?g=363556&p=4108235>.

⁵ James Kane, "World Trade Organization," Institute for Government, January 16, 2017, <https://www.instituteforgovernment.org.uk/article/explainer/world-trade-organization>.

⁶ WTO, "WTO Accessions," Wto.org, 2017, https://www.wto.org/english/thewto_e/acc_e/acc_e.htm.

⁷ Kane, "World Trade Organization".

⁸ Ibid.

⁹ Ibid.

¹⁰ Alan Wm. Wolff, *Is the World Trade Organization Still Relevant?* (SSRN Electronic Journal, 2024), <https://doi.org/10.2139/ssrn.5053427>.

¹¹ T. R. Bowen and J. L. Broz, "The Domestic Political-Economy of the WTO Crisis: Lessons for Preserving Multilateralism," (SSRN Electronic Journal, 2021), <https://doi.org/10.2139/ssrn.3920630>.

¹² Wolff, *Is the World Trade Organization Still Relevant?*.

the quorum of three members necessary to operate.¹³ This has functionally stymied the mechanism designed to resolve disputes, leaving the system unable to enforce compliance. The US has justified this obstruction citing the Appellate Body's judicial overreach, and the claims that WTO rules relating to "trade remedies" have undermined US sovereignty, and that the WTO has failed to tackle the challenges that arise from the membership of non-market economies such as China.¹⁴ Moreover, the US has also taken issue with the Appellate Body discussing matters not directly before it and expecting that its decisions are to be considered as precedent.¹⁵ In protest, by refusing consensus for new appointments, Washington has directly weakened the institution meant to safeguard against trade wars.⁵ As Gantz has argued, this constitutes an existential threat to the rules-based multilateral trade order.⁶

2.4. Unilateral Tariffs and Domestic Trade Laws

Parallel to its blockade of the Appellate Body, the US has increasingly operationalized domestic laws from the 1960s and 1970s to impose tariffs outside the WTO framework. Two such provisions are Section 232 of the Trade Expansion Act of 1962 and Sections 201 and 301 of the Trade Act of 1974. Section 232 authorizes the US President to impose tariffs on goods "being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security."¹⁶ It has been pointed out that "national security" in relation to Section 232 is undefined.¹⁷ Historically, this authority, though invoked, was instrumentalized only sparingly and narrowly.¹⁸ Under the first Trump presidency, however, Section 232 was invoked to impose extensive tariffs on steel and aluminum imports in 2018, justified on the grounds of national security.¹⁹ This is seen as representative of a distortion of the law's intent, turning a narrow safeguard into a tool of broad protectionism.²⁰ Lest anyone thinks that invoking obscure provisions is a Trumpian innovation, the use of Section 232 has been bi-partisan. Research shows that even the Biden administration proceeded to wield Section 232, such as when reinstating aluminum tariffs on the United Arab Emirates.²¹ In all cases, any WTO review was overridden stating as justification that the Appellate Body regularly overrode its remit.²²

Section 201 allows for a temporary import relief for any US industry by increasing import duties or by instilling non-tariff barriers and was invoked in 2018 when Chinese washing machines and solar panels which purportedly injure US industries were slapped with heavy safeguard tariffs.²³

¹³ Daniel C. K. Gantz, "An Existential Threat to WTO Dispute Settlement: Blocking Appointment of Appellate Body Members by the United States," *SSRN Electronic Journal*, 2018, <https://doi.org/10.2139/ssrn.3216633>.

¹⁴ Bowen and Broz, "The Domestic Political-Economy of the WTO Crisis."

¹⁵ Gantz, "An Existential Threat to WTO Dispute Settlement."

¹⁶ R. F. Fefer et al., *Section 232 Investigations: Overview and Issues for Congress* (Congressional Research Service, 2018), https://digital.library.unt.edu/ark:/67531/metadc1213127/m2/1/high_res_d/R45249_2018July05.pdf.

¹⁷ Scott Lincicome and Inu Manak, "Protectionism or National Security? The Use and Abuse of Section 232," *SSRN Electronic Journal*, 2021, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3827377.

¹⁸ Congressional Research Service, "Section 232 of the Trade Expansion Act of 1962," 2025, https://www.congress.gov/crs_external_products/IF/PDF/IF13006/IF13006.2.pdf.

¹⁹ R. F. Fefer et al., *Section 232 Investigations: Overview and Issues for Congress* (Congressional Research Service, 2018).

²⁰ A. J. Kim, "The Untouchable Executive Authority: Trump and The Section 232 Tariffs on Steel and Aluminum," *The Business Law Journal* 28, no. 1 (2020): 176, <http://repository.law.miami.edu/umblr/vol28/iss1/7/>.

²¹ Scott Lincicome and Inu Manak, "Protectionism or National Security? The Use and Abuse of Section 232".

²² Bowen and Broz, "The Domestic Political-Economy of the WTO Crisis."

²³ Fritz Breuss and Elisabeth Christen, *Trump's Trade Wars. Implications for the EU and China* (WIFO Studies, 2019), <https://ideas.repec.org/b/wfo/wstudy/61914.html>.

Similarly, Section 301 empowers the US government to respond to “unfair trade practices.”²⁴ This provision was aggressively used in the 2018–2019 trade war with China, when the US imposed hundreds of billions of dollars in tariffs to counter alleged intellectual property theft and forced technology transfer.²⁵

2.5. Consequences for the Multilateral System

All the above measures were imposed unilaterally, daring other states to retaliate, effectively bypassing WTO adjudication.²⁶ Before the announcement of his initial intention to levy tariffs on steel and aluminum, President Trump, in his 2018 trade agenda report to Congress, stated, “[T]he WTO has in some cases given (countries) unfair advantage over the United States”.²⁷ This is not empirically borne out as the US Trade Representative’s own tabulation indicates that “the US almost always wins the cases it brings against other WTO members, but it loses most of the cases that other members bring against it” by which metric the paralysis the US has caused to the Appellate Body is imposing a cost on the US by disproportionately being concerned with cases that it loses as a respondent.²⁸ Malawer writes that the most likely justification by the US to sidestep the WTO would be to fall back on “the rarely raised and never-decided WTO “security exception” provided in Article XXI” of the GATT which would effectively hasten the dissolution of the WTO.²⁹

As the WTO has been reduced to a passive observer of these unilateral measures due to the Appellate Body blockade, its credibility has been deeply undermined. The dispute settlement system (DSM), regarded as the “crown jewel” of the WTO, which was one of the most widely used dispute settlement systems in the world, is now debilitated, leaving states without a reliable forum to resolve trade conflicts.³⁰ The result has been a return to zero-sum strategizing in international trade, as states increasingly seek unilateral actions or regional mechanisms rather than multilateral solutions. Luo describes this as a broader paradigm shift towards geopolitical confrontation and global disorder based on what is termed nationalistic interventionism.³¹

As the rest of the world appears to be in limbo at the WTO, with the larger US-China interplay of tensions continuing, the systematic erosion of the multilateral system disproportionately affects developing countries without the geopolitical or economic clout to make unilateral decisions. Without binding enforcement, smaller states lack both the legal and economic leverage to challenge powerful actors such as the United States, the EU, or China. The WTO crisis is thus not merely a breakdown of key institutional machinery, but a broader break with neoliberal norms and a transformation in the political economy of trade governance. It marks a turn away from a cooperative, accountable framework towards fragmentation and competitive one-upmanship.

²⁴ Ibid.

²⁵ Bowen and Broz, “The Domestic Political-Economy of the WTO Crisis.”

²⁶ Stuart Malawer, “Trump, Trade and National Security -- Blowing Up the WTO?” SSRN Electronic Journal, 2018, <https://doi.org/10.2139/ssrn.3133770>.

²⁷ Ibid.

²⁸ Bowen and Broz, “The Domestic Political-Economy of the WTO Crisis.”

²⁹ Malawer, “Trump, Trade and National Security -- Blowing Up the WTO?”

³⁰ Marc A. Pollack, “International Court-Curbing in Geneva: Lessons from the Paralysis of the WTO Appellate Body,” SSRN Electronic Journal, 2021, <https://doi.org/10.2139/ssrn.3870457>.

³¹ Yadong Luo, “Paradigm Shift and Theoretical Implications for the Era of Global Disorder,” *Journal of International Business Studies* 55, no. 2 (2023): 127, <https://doi.org/10.1057/s41267-023-00659-2>.

3. Developing Countries in the Crossfire of Trade Wars

When major economic powers such as China and the US engage in trade disputes, developing nations often bear the brunt of costs which are often disproportionate compared to their relative size. With the WTO deadlock, disputes are now in limbo. The WTO's dispute resolution system, in any case, even when it was fully functional, had its limitations. For instance, smaller developing countries often struggle to fully access and utilize the WTO's dispute settlement mechanisms due to a lack of legal expertise and financial resources.³² Moreover, the retaliatory measures prescribed after a dispute is won are sometimes not possible as these smaller countries lack the industrial and trading heft to target a larger country.³³ Smaller countries also are hesitant to initiate disputes. Writ large here then are the power asymmetries. The US and the EU were up till 2020, the main users of the dispute mechanism individually while a group of 15 developing countries had an accumulated caseload greater than the US and the EU combined.³⁴ African countries rarely use the DSM; in fact, only four African countries have been parties in disputes. This is so even as the WTO largest members, the US, EU and China are Africa's largest bilateral trading partners and one might think disputes may have arisen with how large power players operate.³⁵ While there have been instances where some relatively less powerful countries have brought cases against more powerful ones, such as Ukraine against Russia,³⁶ this can be attributed to how Ukraine has US and EU backing against Russia and not necessarily as a case of a country acting without backing. Countries, ideally, should not require patronage to initiate disputes, and the WTO is one of the few international organizations in which each member has equal weight allowing for geopolitics to stay at arms length. But with the US-China trade tensions, when such power players in trade jostle for position through protectionist measures, such as the US is doing, multilateralism suffers and with it less powerful countries' lifelines to the global economy are threatened.

3.1. US-China Tensions and Southeast Asia

The trade confrontation between the US and China since 2018 has produced a heady mix of effects for Southeast Asia. There have arisen opportunities from diverted production and exports, but this has not been without major risks associated with market volatility, exposure to retaliatory actions, reduced returns, and policy pressure to choose sides. The effects on Southeast Asian countries can be categorized as being related to supply-chain relocation and import diversion,³⁷ transshipment and inspection risks (where governments or firms are accused of routing Chinese

³² Kathleen Auld, Linda Del Savio, and Loretta Feris, "An Environmental Agreement in a Trade Court – Is the WTO's Agreement on Fisheries Subsidies Enforceable?," *Journal of World Trade* 58, no. 3: 431-456, <https://doi.org/10.1017/S1474745624000375>

³³ Ibid.

³⁴ Euijin Jung and Anabel Gonzalez, "Developing Countries Can Help Restore the WTO's Dispute Settlement System," *CEPR*, January 27, 2020, <https://cepr.org/voxeu/blogs-and-reviews/developing-countries-can-help-restore-wtos-dispute-settlement-system>.

³⁵ Kholofelo Kugler, "Africa and the Great Power Competition at the World Trade Organization," *Carnegie Endowment for International Peace*, 2025, <https://carnegieendowment.org/research/2025/03/africa-and-the-great-power-competition-at-the-world-trade-organization?lang=en>.

³⁶ Ibid.

³⁷ S. Lim and A. P. T. Nguyen, "Shifting Trade Winds: Southeast Asia's Response to the United States–People's Republic of China Trade Dispute," *Asian Development Review* 41, no. 2 (2024), <https://doi.org/10.1142/S0116110524400134>

goods through third countries),³⁸ and sectoral shocks (for garments, electronics, furniture, and agricultural inputs) that affected vulnerable economies.³⁹

Southeast Asia over the years has enacted transformative economic restructuring that have seen their agrarian and primary industry based economies become liberalized and fused with global markets leveraging an abundance of labor, skilled workforce and geographic location.⁴⁰ Despite the flexibility and resilience the region has exhibited, the trade tensions between the US and China have created significant challenges for Southeast Asian countries as both countries are major economic partners for the region. The US, moreover, has strong political and military ties regionally and with the ASEAN–PRC Free Trade Agreement, China is a major trading partner.⁴¹ As tariff tensions exacerbated, countries like Vietnam saw substantial export growth to both the US and China due to trade diversion and strategic relocations, and Thailand, for instance, experienced positive effects on its exports to the US.⁴² Nonetheless, the overall impact has been more nuanced.

Vietnam is a clear, and well-cited example of both opportunity and vulnerability. As firms diversified production away from China, Vietnam's electronics, footwear and furniture sectors expanded exports to the U.S. and other markets. Yet this very success made Vietnam vulnerable to US scrutiny over transshipment (i.e., allegations that Chinese goods are being routed through Vietnam to evade tariffs).⁴³ Vietnam has significant scrutiny trained on it to target trade fraud such as falsification of origin documents.⁴⁴ In 2025, the US imposed tariffs that targeted suspected transshipments and announced steep duties on a range of Vietnamese goods.⁴⁵ Vietnam has reached an understanding with US authorities on a 20 percent regular tariff and a 40 percent tariff for transshipped goods while simultaneously pledging stricter controls to avoid heavy anti-transshipment levies.⁴⁶ Reuters reporting documents that US tariffs could slash a substantial share of Vietnamese exports to the US in worst-case scenarios.⁴⁷ Vietnam, in having to “choose” between the US and China, illustrates how proximity to China and integration into China-centred value chains can translate into sudden policy risk for neighboring exporters.⁴⁸

Alongside Vietnam, Malaysia and Thailand also emerged as the main recipients of the restructuring of world supply chains.⁴⁹ They experienced similar dynamics in electronics and

³⁸ Caroline Freund, *The China Wash: Identifying Tariff Evasion via Transshipment*. (UC San Diego GPS brief / working paper, Feb. 7, 2025):

<https://china.ucsd.edu/files/02072025-brief-identify-tariff-evasion-web.pdf>

³⁹ Abdul Abiad et al., *The Impact of Trade Conflict on Developing Asia*, ADB Economics Working Paper Series (Manila: Asian Development Bank, 2018), <https://doi.org/10.22617/WPS189770-2>

⁴⁰ Lim and Ngyun, “Shifting Trade Winds”.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Freund, *The China Wash*.

⁴⁴ Francesco Guarascio, “Vietnam plans new penalties for illegal transshipments after Trump deal, documents show,” Reuters, July 10, 2025, <https://www.reuters.com/world/china/vietnam-plans-new-penalties-illegal-transshipments-after-trump-deal-documents-2025-07-10/>

⁴⁵ Ibid.

⁴⁶ Ines Liu, “Impact of Tariffs by President Trump on Vietnamese Exports,” Vietnam Briefing News, August 26, 2025, <https://www.vietnam-briefing.com/news/us-vietnam-trade-relations-trump-impact-tariff-vietnamese-exports.html/>.

⁴⁷ Francesco Guarascio, “Hardest-hit Vietnam risks losing \$25 billion from US tariffs, UN estimates,” Reuters, Sept. 21, 2025, <https://www.reuters.com/world/china/hardest-hit-vietnam-risks-losing-25-billion-us-tariffs-un-estimates-2025-09-22/>

⁴⁸ Lim and Nguyen, “Shifting Trade Winds”.

⁴⁹ Wei Luo, Siyuan Kang, Sheng Hu, Lixian Su, and Rui Dai, “Dual Effects of the US–China Trade War and COVID-19 on United States Imports: Transfer of China’s industrial chain?,” arXiv preprint, Sept. 5, 2023, <https://doi.org/10.48550/arxiv.2309.02271>

intermediate goods with exporters facing margin pressures and uncertainty when tariff lists changed or when customers required compliance documentation proving origin.⁵⁰ Studies using trade data and case analysis show that although some Southeast Asian economies benefited from relocation, gains were uneven and often temporary, dependent on firms' ability to deepen local supplier networks.⁵¹ As the US imports less from China, businesses have relocated parts of their global supply chains away from China to avoid tariffs, leading Southeast Asian exporters to integrate more into value chains based on Chinese suppliers.⁵² Lim and Nguyen write that these tensions and the attendant changes have also made technological disparities worse and disrupted technology transfers.⁵³ The ASEAN region has historically shown resilience to external shocks but those originating from the US and China have had a more pronounced effect than regional shocks, particularly after the Asian financial crisis.⁵⁴

A possible casualty of the tariff war is established regionalism. ASEAN's own standing as a regional bloc has been challenged by the tariffs as countries initiated bilateral trade talks with the US, with Vietnam, the Philippines and Indonesia securing trade deals.⁵⁵ While politically, ASEAN did make statements that spoke to regional unity against the tariffs, there is no action in the works planned as a bulwark against the fluctuations such as those caused by the tariffs. The variations in export growth across countries due to tariffs was found to be driven by country-specific features such as supply elasticity and specialization patterns, and while, in this light, it makes sense that countries may be seeking bilateral agreements,⁵⁶ this does not portend well for an international rules-based trade regime if everyone is seeking beggar-thy-neighbor arrangements unilaterally. Others argue that the US tariffs enable China to position itself as a "defender of the global trading system and rules-based order, in contrast to American unilateralism and economic coercion".⁵⁷ Hence, by operationalizing protectionism, the US is accomplishing the opposite of curbing what they see as Chinese hegemonic tendencies. Meanwhile, making most of the situation, China is pursuing an "Asia for Asians" ethos,⁵⁸ by integrating into Southeast Asian economies, although that might not translate into equal dividends for all countries involved as economies vary in size and specialization.

3.2. European Climate Taxes and African Exporters

While US tariffs are already having a considerable impact in Southeast Asia upending supply chains and rerouting production, new environmental regulations, such as the European Union's Carbon Border Adjustment Mechanism (CBAM), pose significant threats to developing economies. The CBAM seeks to tax energy-intensive imports from countries with lax climate policies, including sectors such as iron and steel, cement, fertiliser, aluminum, hydrogen and

⁵⁰ Ibid.

⁵¹ Abdul Abiad et al., *The Impact of Trade Conflict on Developing Asia*,

⁵² Luo et al, "Dual Effects of the US-China Trade War".

⁵³ Lim and Nguyen, "Shifting Trade Winds".

⁵⁴ Mala Raghavan and Evelyn S. Devadason, "How Resilient Is ASEAN-5 to Trade Shocks? A Comparison of Regional and Global Shocks," *Global Journal of Emerging Market Economies* 12, no. 1: 93-115, <https://doi.org/10.1177/0974910120906239>.

⁵⁵ Julia Tijaja, "Southeast Asia's Trade Battle Plan for the Post-Trump World," East Asia Forum, August 17, 2025, <https://eastasiaforum.org/2025/08/17/southeast-asias-trade-battle-plan-for-the-post-trump-world/>.

⁵⁶ Pablo Fajgelbaum et al., "The US-China Trade War and Global Reallocations," *American Economic Review: Insights* 6, no. 2: 295-312, <https://doi.org/10.1257/aeri.20230094>.

⁵⁷ Benjamin Bland, "Trump's Tariffs Will Push Southeast Asia Uncomfortably close to China," Chatham House – International Affairs Think Tank, April 7, 2025, <https://www.chathamhouse.org/2025/04/trumps-tariffs-will-push-southeast-asia-uncomfortably-close-china>

⁵⁸ Ibid.

electricity generation in order to stop “carbon leakage”.⁵⁹ Triggered in 2023, the CBAM will have a transitional period till January of 2026. Its introduction is expected to come with high costs for countries that heavily export to the EU, particularly developing countries.^{60 61}

Of those developing countries, studies suggest that CBAM could disproportionately affect some non-EU economies, especially those in Africa, by reducing their exports and competitiveness.⁶² A joint study by the African Climate Foundation and the LSE Firoz Lalji Institute indicates in some modeling that the CBAM applied across all targeted imports may shrink African exports to the EU by 5.7 percent and its continental GDP by 1.12 percent.⁶³ Steel, aluminium and fertilisers are key components of Africa’s development arc and are crucial to the construction and agricultural sectors and these are the very exports to be taxed.⁶⁴ The CBAM mechanism could also introduce administrative hurdles, as “exporting countries will have a high procedural burden”, making market access more difficult for African countries that already struggle with trade barriers.^{65 66}

Countries relying on carbon-intensive exports, such as Ukraine, Egypt, Mozambique, and Turkey, are projected to face significant welfare losses, with Mozambique’s economy potentially shrinking by 2.5 percent.⁶⁷ Non-EU critics of the CBAM see it as a unilateral, protectionist and interventionist measure (attempting to change policy in other countries) which will widen the gap between developing and developed nations both in terms of welfare and GDP.⁶⁸ Carbon border taxes are generally very controversial⁶⁹ and such carbon tariffs effectively shift the economic burden of developed-world climate policies to the developing world.⁷⁰

This, however, is not a new development. Ngaire Woods in *The Globalizers* writes that “Commodity exports lay at the core of the problem for many low-income developing economies.”⁷¹ She explains further that their dependence on exporting these commodities is a pernicious economic trap due to access to markets being highly regulated and policies being discretionary, due to a decline in long-term prices and demand, and due to industrialized countries imposing ever higher barriers to these goods that prevent them from seeking solutions by transitioning from

⁵⁹ Bo-Qiang Lin and Hengsong Zhao, “Which sectors should be covered by the EU Carbon Border Adjustment Mechanism?,” *Advances in Climate Change Research* 14, no. 6: 952, <https://doi.org/10.1016/j.accre.2023.11.012>.

⁶⁰ Guilherme Magacho, Étienne Espagne, and Antoine Godin, “Impacts of the CBAM on EU trade partners: consequences for developing countries,” *Climate Policy* 24, no. 2: 243, <https://doi.org/10.1080/14693062.2023.2200758>.

⁶¹ Sigit Perdana and Marc Vielle, “Making the EU Carbon Border Adjustment Mechanism acceptable and climate friendly for least developed countries,” *Energy Policy* 170: 113245, <https://doi.org/10.1016/j.enpol.2022.113245>.

⁶² Magacho et al, “Impacts of the CBAM on EU trade partners

⁶³ Geoffroy Guepie, Jamie Macleod, Oluwasola Omojo, Rob Davies, Colette Van, et al.. Implications for African countries of a carbon border adjustment mechanism in the EU. The African Climate Foundation; LSE Firoz Lalji Institute for Africa. 2023. <https://africanclimatefoundation.org/wp-content/uploads/2023/05/800756-AFC-Implications-for-Africa-of-a-CBAM-in-the-EU-06A-FINAL.pdf#page=28>

⁶⁴ Samuel Pleeck, Fatima Denton and Ian Mitchell, “An EU Tax on African Carbon – Assessing the Impact and Ways Forward” (Center for Global Development, February 10, 2022). <https://www.cgdev.org/blog/eu-tax-african-carbon-assessing-impact-and-ways-forward>

⁶⁵ Ibid.

⁶⁶ Andrew Gilder and Olivia Rumble, “The Impact of the CBAM on African Economies and the Role of the AfCFTA,” SAIIA, April 2024, <https://saiia.org.za/research/the-impact-of-the-cbam-on-african-economies-and-the-role-of-the-afcfta/>.

⁶⁷ He Xiaobei, Zhai Fan and Ma Jun, *The Global Impact of a Carbon Border Adjustment Mechanism: A Quantitative Assessment* (The Task Force on Climate, Development and the International Monetary Fund, 2022). <https://www.bu.edu/gdp/files/2022/03/TF-WP-001-FIN.pdf>

⁶⁸ Ibid.

⁶⁹ Ibid.

⁷⁰ Perdana and Vielle, “Making the EU Carbon Border Adjustment Mechanism acceptable”.

⁷¹ Ngaire Woods, *The Globalizers: The IMF, the World Bank, and Their Borrowers* (Ithaca: Cornell University Press, 2006). 145.

raw materials to semi and processed goods.⁷² This is not dissimilar to how the CBAM would operate; in fact, Woods may just be explaining the very scenario that the tax would create and operate in. As far back as 1988, a United Nations Conference on Trade and Development (UNCTAD) study laid bare how “industrialized countries were applying twice the level of nontariff barriers to manufactured goods from developing countries compared to what they were applying to manufactured trade with each other”.⁷³ Historically then, developing countries have been and are effectively “kicking away the development ladder”.⁷⁴

The CBAM is not a market-based mitigation approach and as such it may also not be compliant with the WTO’s principle of non-discrimination. In compliance with the terms of the most-favoured-nation rule, favorable consideration extended to “like” imports of one WTO member should be given to all other WTO members.⁷⁵ However, it is still unclear how any dispute regarding this will play out as the WTO Appellate Body is not functional in any case, leaving developing nations to face the brunt of unilateral trade measures from powerful, industrialized countries.

4. The Labyrinth of Conflicting Trade Agreements and Market Access Loss

As can be seen from the previous sections, the current state of multilateral trade is uncertain. The WTO is dysfunctional and with the new US tariff regime and the retaliatory actions, many developing countries and countries with emerging economies are scrambling to attempt to cushion their economies all the while having to grapple with geopolitical jostling between larger, more powerful economies. Sinha explains that:

“Emerging powers have also chosen a dual strategy of consolidating their rise within the WTO, while also investing in outside options such as the RCEP (Regional Comprehensive Economic Partnership), the BRICS grouping (Brazil, Russia, India, China and South Africa) and the G20, just as the United States has turned in other directions. Deglobalization trends in the world have also led to the selective pursuit of protectionism by both emerging and leading powers.”⁷⁶

In the trade war frenzy, everyone is reaching for alternatives and fall backs, but while still enmeshed within the WTO. “Mega-regional” trade agreements such as Transatlantic Trade and Investment Partnership (TTIP) between the US and EU, and a 16-member Trans-Pacific Partnership (TPP) were such attempts at alternatives.^{77 78} While the current tariff wars may hasten the retreat of multilateralism, it has been written about since the 1990s, when the Second Regionalism was initiated, with regional preferential trade agreements taking hold.⁷⁹ Today, with the breakdown of the WTO Doha round of talks over US demands for reciprocity and China’s

⁷² Ibid.

⁷³ United Nations Conference on Trade and Development (UNCTAD). 1988. Eleventh general report on the implementation of the generalized system of preferences. February. Geneva: UNCTAD.

⁷⁴ Woods, *The Globalizers*. 145.

⁷⁵ Gilder and Rumble, “The Impact of the CBAM”

⁷⁶ Aseema Sinha, “Understanding the ‘crisis of the institution’ in the liberal trade order at the WTO” *International Affairs* 97: 5 (2021) 1521–1540; doi: 10.1093/ia/iiab109.

⁷⁷ Arvind Subramanian, “Ideas and Power in Contemporary Trade Development,” *Adelphi Series* 54, no. 450: 39–60, <https://doi.org/10.1080/19445571.2014.1019717>.

⁷⁸ Both partnerships are defunct.

⁷⁹ Bhagwati, Jagdish. “Regionalism versus Multilateralism.” *The World Economy* 15, no. 5 (September 1992): 535–56. <https://core.ac.uk/download/pdf/161442768.pdf>

demands for special and differential treatment,^{80 81} Third Regionalism is in effect. Many mega-regionals have gone through iterative processes and continue to be willed into existence out of contextual necessity. Everyone appears to be attempting to nurture multiple trading baskets, so to speak, and the proliferation of such various trade agreements, including free trade agreements, bilateral investment treaties, and regional trade agreements, creates a complex and often contradictory legal landscape. Developing countries have entered into many such agreements that create overlapping protections with gray areas.⁸² This web of agreements can also lead to overlapping and conflicting obligations.⁸³

For example, local content initiatives (LCIs), often pursued by resource-rich developing countries for national development giving precedence to the domestic sphere, may contravene trade and investment disciplines embedded in free trade agreements, bilateral investment treaties, and WTO rules.⁸⁴ Investment agreements often exceed the scope of WTO provisions by entrenching limitations or adding new layers of commitments.⁸⁵ Another example was when Brazil was caught between its commitment to the WTO and to the regional MERCOSUR in a matter regarding the import of retreaded tires.⁸⁶ Bound by WTO's most-favored-nation clause, Brazil was required to offer the same importation terms for all WTO members while simultaneously being required to provide preferential, duty-free terms to members of regional MERCOSUR. When Brazil placed a ban on all tire importation citing environmental concerns albeit with an exemption to Mercosur members, a dispute was initiated against Brazil at the WTO which the Appellate Body adjudicated against Brazil.⁸⁷ As such, the conflict between regional and other partnerships and commitments is substantial and can lead to discriminatory measures and sanction for such measures. This raises significant coordination challenges, including the risk of parallel legal proceedings, double jeopardy, and normative conflicts.⁸⁸ The inconsistencies in legal interpretation, particularly within investor-State dispute settlement, has undermined, for instance, the predictability crucial for promoting foreign direct investment,⁸⁹ which is a lifeline for developing nations helping them boost economic growth, drive technological innovations, diversify trade options, and lead to better foreign exchange reserves.⁹⁰

⁸⁰ Kent Jones, "The Doha Round: What Went Wrong and What is at Stake?", in *Reconstructing the World Trade Organization for the 21st Century: An Institutional Approach* (New York, 2015; online edn, Oxford Academic, 18 Dec. 2014), <https://doi.org/10.1093/acprof:oso/9780199366040.003.0001>.

⁸¹ Kristen Hopewell, *Clash of Powers: US-China Rivalry in Global Trade Governance* (New York: Cambridge University Press, 2020), 21.

⁸² Correa, Carlos M. "Investment Protection in Bilateral and Free Trade Agreements: Implications for the Granting of Compulsory Licenses." *Michigan Journal of International Law* 26, no. 1: 331. <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1223&context=mjil>

⁸³ Wolfgang Alschner, "Regionalism and Overlap in Investment Treaty Law: Towards Consolidation or Contradiction?," *Journal of International Economic Law* 17, no. 2: 271, <https://doi.org/10.1093/jiel/jgu025>.

⁸⁴ Bande Gulbert Mbah Tarh, "Assessing the Paradox and Opportunities of Local Content Under the International Trade and Investment Legal Framework: A Lesson from Cameroon," *International Journal of Advanced Research*, 2018, <https://zenodo.org/records/2386298>

⁸⁵ Ibid.

⁸⁶ Robert Howse. "Regulatory Cooperation, Regional Trade Agreements, and World Trade Law: Conflict or Complementarity?" (2015). https://www.researchgate.net/publication/299596793_Regulatory_Cooperation_Regional_Trade_Agreements_and_World_Trade_Law_Conflict_or_Complementarity

⁸⁷ Ibid.

⁸⁸ Alschner, "Regionalism and Overlap in Investment Treaty Law".

⁸⁹ Jonathan Arato, C. L. Brown, and Federico Ortino, "Parsing and Managing Inconsistency in Investor-State Dispute Settlement," *The Journal of World Investment & Trade* 21: 336, <https://doi.org/10.1163/22119000-12340175>.

⁹⁰ Tatiana Nenova, "Five Reasons Why Sri Lanka Needs to Attract Foreign Direct Investments," World Bank Blogs, May 30, 2018, <https://blogs.worldbank.org/en/endpovertyinsouthasia/five-reasons-why-sri-lanka-needs-attract-foreign-direct-investments>.

4.1. Exclusion and Market Access Loss

Along with the regulatory overlaps and the conflicts arising as a result, the rise of mega-regional trade agreements often leads to trade diversion for third countries, particularly low-income economies, due to their discriminatory nature.⁹¹ Often the way their export industries are structured as well as their composition, alongside the fact that they fall outside of the remit of current mega-regional initiatives can, therefore, mean that they suffer largely negative economic consequences, for instance in African countries in general.⁹² Then countries are incentivized to form new trade agreements and those that do not actively do so are disadvantaged in the face of market access.⁹³

Research demonstrates that countries consistently lose market access when excluded from new trade deals. Harrison et al. found that “excluded countries as a group always lose” from regional trade agreements, with the European Union identified as “the big loser” from the Free Trade Agreement of the Americas.⁹⁴ An example of such a loss is the decline in Argentina’s cattle and beef exports to Peru when Peru joined the Andean Pact with Colombia, demonstrating how excluded countries suffer welfare losses even from agreements among small nations.⁹⁵ Borchert quantified such losses, showing that when African, Caribbean and Pacific countries received preferential EU access, seven developing countries with only basic preferences saw their EU exports decline by 30 percent for every 10 percentage point tariff reduction granted to preferred partners.⁹⁶ These losses averaged 9 percent of total EU trade volume. This creates a scenario where the evolution of the system of preferences is disadvantageous for non-participating developing countries, as market access conditions become increasingly discriminatory.⁹⁷ This has been explained as creating a competitive dynamic where “exporters facing trade diversion because of their exclusion” pressure governments to negotiate counter-agreements to regain market access.⁹⁸ However, there is wisdom in questioning whether mopping up straggling countries into ever widening webs of preferential trade agreements is a viable long-term solution to multilateralism. Often the dividends from regional trade are marginal to what is gained from aggregate free trade.⁹⁹

⁹¹ Claude Sieber-Gasser, “How Special and Differential Treatment Is Able to Prevent Marginalisation of Low Income Economies,” SSRN Electronic Journal, 2016, <https://doi.org/10.2139/ssrn.2800919>.

⁹² Ibid.

⁹³ Marco Fugazza and Alessandro Nicita, “The direct and relative effects of preferential market access,” *Journal of International Economics* 89, no. 2: 357, <https://doi.org/10.1016/j.jinteco.2012.09.001>.

⁹⁴ Glenn W. Harrison, Thomas F. Rutherford, and David G. Tarr. *Chile’s Regional Arrangements and the Free Trade Agreement of the Americas: The Importance of Market Access*. Policy Research Working Paper 2634. (2001). The World Bank, Trade, Development Research Group. <https://openknowledge.worldbank.org/server/api/core/bitstreams/3bdbc12a-00ea-5fce-a57b-0c6fa6eaac29/content>

⁹⁵ Anju Gupta and Maurice Schiff, *Outsiders and RTAs among Small Countries: The Case of Regional Markets*. Policy Research Working Paper 4710. (1997). The World Bank, Development Research Group. <https://documents1.worldbank.org/curated/en/441101468781750328/pdf/multi0page.pdf>

⁹⁶ Ingo Borchert, *Trade Diversion under Selective Preferential Market Access*. Policy Research Working Paper 1847. (2008). The World Bank, Trade Team, Development Research Group

⁹⁷ Fugazza and Nicita, “The direct and relative effects of preferential market access.”

⁹⁸ Leonardo Baccini and Andreas Dür. “The New Regionalism and Policy Interdependence.” *British Journal of Political Science*. 2012;42(1):57-79. doi:10.1017/S0007123411000238

⁹⁹ Harrison et al, *Chile’s Regional Arrangements*.

5. Alternatives: Possibilities and Perils

5.1. Shifting Hegemony: US, China, and the Developing World

With the emergence of China and the shift in bargaining power consonant with the rise of developing nations, US dominance appears to be in decline. Hopewell writes of how China, paradoxically, is both an economic juggernaut and a developing nation.¹⁰⁰ Historically, countries that have been the most powerful and wielded the most clout internationally have been the most developed. The China paradox, thus, has created an enormous asymmetry in power dynamics, upsetting understood order.¹⁰¹ Developing countries within the trading system are afforded allowances with tariffs, subsidies and other mechanisms to facilitate their further growth, and China, Hopewell writes, insists on accessing these, even as its market is not an open one.¹⁰² This has had an aggravating effect on two key principles of the multilateral trading system: reciprocity and special and differential treatment leading to the core conflict between China and the US.¹⁰³

The global trading system and its orthodoxies has thus been deeply shaken by the rise of China and the accumulated GDP of emerging economies. This rise has coincided with and caused the US, which played the architect role in establishing the post-World War II liberal international order and its rules-based institutions like the WTO, to now abandon its promotion of this system.^{104 105} In fact, it is remarkable that the WTO, with its one vote-one member consensus, is the organization that has been crippled by the US, which many appear to have looked upon more favorably than the IMF and the World Bank which are often accused of overtly servicing US and Western interests.^{106 107} This shift, furthermore, reflects a decline in US support for multilateralism¹⁰⁸ and signals towards a foreign economic policy characterized by unilateral actions and disengagement from multilateral trade governance.¹⁰⁹

Concurrently, China's global economic leadership is being welcomed, mostly among developing countries and economies that have undergone financial woes, "more variable capital account policies, more volatile portfolio capital outflows, and more social unrest during IMF programs".¹¹⁰ For instance, China has been Africa's largest trading partner for over 15 years.¹¹¹ Resultingly, China's influence has changed global trade governance.

¹⁰⁰ Hopewell, *Clash of Powers*, 18.

¹⁰¹ Ibid.

¹⁰² Ibid.

¹⁰³ Ibid.

¹⁰⁴ Wolff, *Is the World Trade Organization Still Relevant?*

¹⁰⁵ Jones, "The Doha Round: What Went Wrong and What is at Stake?"

¹⁰⁶ Mark Wesbrot. "The IMF's Lost Influence in the 21st Century and Its Implications." *Challenge* 59 (4), 2016: 345–60. doi:10.1080/05775132.2016.1202029.

¹⁰⁷ Thomas Oatley and Jason Yackee, "American Interests and IMF Lending," *International Politics* 41, 2004: 415–429, <https://doi.org/10.1057/palgrave.ip.880008>

¹⁰⁸ Bowen and Broz, "The Domestic Political-Economy of the WTO Crisis".

¹⁰⁹ Andrea Poletti and Lorenzo Zambonardi, "Declining Hegemony and the Sources of Trump's Disengagement from Multilateral Trade Governance: The Interaction between Domestic Politics and the International Political Economy," *International Politics* 59, no. 6, 2021: 1101, <https://doi.org/10.1057/s41311-021-00346-9>.

¹¹⁰ Ibid.

¹¹¹ Zhang Yiyi, "China Remains Africa's Top Trade Partner for 16th Year, Cooperation in Various Areas Continues to Expand: Official - Global Times," *Globaltimes.cn*, 2025, <https://www.globaltimes.cn/page/202505/1334585.shtml>.

While China often speaks of assisting developing countries, and its win-win framework, its initiatives have been charged with creating new forms of dependency.¹¹² It is commonplace to see Chinese activities in Africa categorized as either “evil” depending on if raw materials are being pursued or as “virtuous” if infrastructure is being erected for long-term economic development.¹¹³ Even on the infrastructure development front, China has been accused of debt-trap diplomacy, such as with the now-infamous Hambantota Port case in Sri Lanka and the country’s economic collapse.¹¹⁴ Ultimately it was found that mismanagement, corruption, a dearth of foreign reserves, and the effects of COVID-19 measures all contributed more to the economic collapse, but that has not cleared China from the accusations.¹¹⁵ However, with the scrutiny that Chinese infrastructure projects are being afforded and with the very publicized failures, some believe that China may be coming to an “understanding that simply throwing money at infrastructure and other connectivity projects in developing countries may not turn out as planned” especially as these places are already prone to weak institutions and poor management of finances.^{116 117}

In how the US and China are being conceived of as hegemons, benign or otherwise, what is clear is that there’s a gap between the US/Western formulation of development and how to facilitate it and the Chinese idea of the same, and developing countries much like during the Cold War, are being pressured to choose sides.¹¹⁸ Neither the US nor China, in their current approaches, consistently offers a system that truly prioritizes the interests of smaller, poorer nations. The shift towards geopolitical rivalry and zero-sum thinking, driven by national security concerns, has overshadowed the multilateral principles that once undergirded the global economy.¹¹⁹ The difference now is that more countries seem willing to look towards alternatives than merely choose sides.

5.2. New Alternatives: Regionalism and Beyond

Within the WTO itself, in response to the Appellate Body paralysis, alternative arrangements have been sought and made. It must be understood that the Appellate Body is the second and final tier to which panel decisions that are disputed are escalated, which means that if panel decisions are found satisfactory, there is no requirement to raise the matter further. Appealing into the void, in bad faith, has been used as a weapon to thwart binding panel decisions, but there have been instances where countries engaged in disputes have pre-panel settlement agreed to not do so, in some small measure attempting to restore some form of good will and legitimacy within the WTO.¹²⁰ Alongside agreeing to not appeal, members have also innovated by agreeing to appeal through temporary arbitrations, such as the Multi-Party Interim Appeal Arbitration Arrangement (MPIA) formed by a group of 16 WTO members. This grouping, however, does not include the

¹¹² Matt Ferchen, “How China Is Reshaping International Development,” Carnegie Endowment for International Peace, 2020, <https://carnegieendowment.org/posts/2020/01/how-china-is-reshaping-international-development?lang=en>.

¹¹³ Yun Sun, “Africa in China’s Foreign Policy” (Brookings, 2014), https://www.brookings.edu/wp-content/uploads/2016/06/Africa-in-China-web_CMG7.pdf.

¹¹⁴ Maria Abi-Habib, “How China Got Sri Lanka to Cough up a Port,” *The New York Times*, June 25, 2018, <https://www.nytimes.com/2018/06/25/world/asia/china-sri-lanka-port.html>.

¹¹⁵ Deborah Brautigam, and Meg Rithmire. “The Chinese Debt Trap Is a Myth: The Narrative Wrongfully Portrays Both Beijing and the Developing Countries It Deals With.” *The Atlantic* (website) (February 6, 2021).

¹¹⁶ Ferchen, “How China Is Reshaping International Development.”

¹¹⁷ Umesh Moramudali, “Is Sri Lanka Really a Victim of China’s ‘Debt Trap’?,” *TheDiplomat.com*, May 14, 2019, <https://thediplomat.com/2019/05/is-sri-lanka-really-a-victim-of-chinas-debt-trap/>.

¹¹⁸ Ferchen, “How China Is Reshaping International Development.”

¹¹⁹ Yadong Luo. “Paradigm Shift and Theoretical Implications for the Era of Global Disorder.” *Journal of International Business Studies* 55, no. 2, 2023: 127. <https://doi.org/10.1057/s41267-023-00659-2>.

¹²⁰ Peter Ungphakorn, “A Bit of Bother down at the WTO Court — Why? And Is It a Killer? Long Read,” *Trade β Blog* (Trade β Blog, August 21, 2019), <https://tradebetablog.wordpress.com/2019/08/21/bother-at-wto-court/>.

US or India which limits its universal applicability and the binding nature of its pronouncements.¹²¹

¹²² None of this is a long-term solution; nor are these methods going on to produce binding or precedent-setting outcomes. They also all depend on members' voluntary participation. What these attempts indicate, nonetheless, is an enduring will to see the WTO function in some capacity, that is to say to see multilateralism prevail. The WTO had been slated to collapse after the US blockade, but it recently added two new members, Comoros and Timor-Leste.¹²³

Members are not withdrawing from the WTO, but they, especially developing countries, are not impervious to the trajectories and the realities of trade. Many appear to be hedging their bets and have been doing so as with the Second and Third Regionalisms mentioned above. In response to the weakening multilateral system, new regional trade arrangements have emerged, such as the African Continental Free Trade Area (AfCFTA) which encompasses over a billion people across 54¹²⁴ African Union member states.¹²⁵ An ambitious project, in fact it is the largest trade organization in terms of membership after the WTO, its aims are, among others, predominantly market integration and economic growth.¹²⁶ Its ambitions are replete with trenchant challenges, not the least concerning of which are infrastructural deficiencies, colonial legacies of mistrust, financing and credit inadequacies and overlapping African regional pacts that create inconsistencies and conflicts.¹²⁷ The latter is an increasingly pressing issue as more and more regional and sub-regional agreements proliferate across the world.

Various Asian trade partnerships have also sprung up, among whom ASEAN is a success story.¹²⁸ In fact a New Regionalism is being proposed as being in effect by those who believe that the Washington Consensus and the Beijing Consensus both face rejection.¹²⁹ These initiatives target fostering regional integration and the strengthening of the economic resilience of participating nations. However, it remains a critical question whether these arrangements genuinely benefit developing countries or merely establish new hierarchies with different existing dominant powers or emerging ones. An attenuating factor is that as mega-regionals spring up, as has been discussed above, there are costs associated with being excluded from them and from being low income economies.¹³⁰ As Sieber-Gasser writes:

¹²¹ Kayah Bhan et al., "What Are the Implications of the United States' Blockage of Appointments to the WTO Appellate Body in 2019, and What Progress Has Been Made towards Reforming the Dispute Settlement System?" | *OxJournal*, Oxjournal.org, 2019, <https://www.oxjournal.org/united-states-blockage-of-appointments-to-the-wto-appellate-body/>.

¹²² WTO, "STATEMENT on a MECHANISM for DEVELOPING, DOCUMENTING and SHARING PRACTICES and PROCEDURES in the CONDUCT of WTO DISPUTES," March 30, 2020, <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/Jobs/DSB/1A12.pdf&Open=True>.

¹²³ Colin Zhuawu, "Blog: WTO MC13 Outcome: Unmet Expectations on Developmental Issues," Commonwealth, April 3, 2023, <https://thecommonwealth.org/news/blog-wto-mc13-outcome-unmet-expectations-developmental-issues>.

¹²⁴ The AU consists of 55 members. Eritrea has not signed the agreement. Out of the 54 signatories, 48 have ratified the document.

¹²⁵ The African Continental Free Trade Area : Economic and Distributional Effects (English). Washington, D.C. : World Bank Group, 2020. <http://documents.worldbank.org/curated/en/216831595998182418>

¹²⁶ African Union, "The African Continental Free Trade Area | African Union," African Union, 2024, <https://au.int/en/african-continental-free-trade-area>.

¹²⁷ James Shikwati, "AfCFTA: A Beacon of Hope or a Failed Project?," www.freiheit.org, May 2, 2024, <https://www.freiheit.org/sub-saharan-africa/beacon-hope-or-failed-project>.

¹²⁸ Peter Drysdale, "ASEAN: The Experiment in Open Regionalism that Succeeded" in *The ASEAN Economic Community into 2025 and Beyond*, Economic Research Institute for ASEAN and East Asia, 2017, <https://asean.org/wp-content/uploads/2021/08/the-asean-economic-community-into-2025-and-beyond.pdf>.

¹²⁹ Pasha Hsieh, "What Is New Asian Regionalism?," U.S.-Asia Law Institute, January 20, 2022, <https://usali.org/usali-perspectives-blog/what-is-new-asian-regionalism>.

¹³⁰ Sieber-Gasser, "How Special and Differential Treatment Is Able to Prevent Marginalisation".

“Low income economies are, however, likely to suffer from both trade diversion and from an inability to benefit from economic spill over effects of Mega-Regionals. This may increase their marginalisation in the global market.”¹³¹

So, regardless of the best-laid and well-intentioned plans of regionalism, the low income economies of any pact are likely to face marginalization, within the pact or outside of it. As such, in this situation, Sieber-Gasser argues that the WTO still may be required to provide direction on how special and differential treatment may be implemented across the board. Then even within the retreat of multilateralism, a need for the WTO is never truly absent. Overall, a critical examination is necessary to ascertain if these new regionals offer genuine alternatives that empower developing nations or if they instead introduce new forms of economic control and dependency. The fragmentation of the multilateral system and the rise of competing regional or bilateral blocs mean that developing countries must carefully weigh the benefits and risks of each arrangement, which at times they may not have the resources to do.

6. Conclusion

The current breakdown of global trade rules, spearheaded by the paralysis of the WTO's dispute settlement system due to disruptive US actions and the unilateral application of its domestic trade laws, represents a fundamental and likely enduring shift in the international economic order, as a result of a pivot away from globalization.¹³² While the previous, rules-based system was not without its imperfections, the emerging landscape of unilateral actions, trade wars, and conflicting regional agreements presents a more perilous environment for developing countries. These nations are increasingly caught in the middle of disputes between major powers, suffering from disrupted supply chains, functionally reduced or lost market access due to exclusionary trade deals, and the unintended consequences of policies like climate taxes. The decline of American multilateral leadership and China's growing influence, while presenting new opportunities, also carry the risk of creating new dependencies rather than fostering true equity. The prospect of countries returning to robust multilateral cooperation appears dim in the short to medium term. Instead, the global trading system is likely to remain fragmented, characterized by a complex interplay of regional blocs and bilateral agreements. For developing countries, navigating this increasingly complex and uncertain environment will demand strategic agility and a careful assessment of how to best safeguard their economic interests amidst a shifting global power dynamic. Restoration of the Appellate Body of the WTO remains the first crucial step towards ensuring accountability for developing nations even within the US-China rift as it has been demonstrated that WTO is a necessary, crucial umbrella that can provide a serviceable dispute resolution mechanism within the proliferation of new trade arrangements. It is highly promising no member is clamoring to leave the WTO which is testament to its enduring potential as understood even in a discordant global trade order.

¹³¹ Ibid.

¹³² Pablo D. Fajgelbaum and Amit K. Khandelwal, The Economic Impacts of the US–China Trade War, NBER Working Paper No. 29315 (Cambridge, MA: National Bureau of Economic Research, September 2021), <https://www.nber.org/papers/w29315>

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