

WTO after the 12th Ministerial Conference – the effects of the arrangements in the light of the reform of the World Trade Organization¹

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Abstract

This article reflects on the outcomes of the 12th WTO Ministerial Conference (MC12), which took place on 12–17 June 2022 in Geneva. The aim of the article is to analyse the effects of this meeting in the context of the reform of the multilateral system. For this purpose, the following research questions were posed: (1) What arrangements were made during MC12? (2) Are the adopted agreements relevant for the future reform of the multilateral system within the WTO? The analysis presented in the study demonstrated that this conference, which had been postponed several times due to the COVID-19 pandemic, was a confirmation that the negotiating crisis of recent years had been overcome. Additionally, the author emphasised that the agreements reached among the representatives of 164 member countries should be seen as a success, especially in view of the international tensions accompanying the meeting. The arrangements that were made, therefore, also provide a deeper understanding of the functioning of the multilateral system within the WTO and its complexities.

The structure of the article consists of an introduction, two sections presenting the results of the analysis, and conclusions. Methodologically, the article is mainly based on a critical analysis of WTO source documents and academic studies on international trade policy.

Keywords: Ministerial Conference, MC12, European Union, World Trade Organization, WTO reform

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WTO po 12 Konferencji Ministerialnej – efekty uzgodnień w świetle reformy Światowej Organizacji Handlu

Streszczenie

W artykule zawarto rozważania na temat wyników 12. Konferencji Ministerialnej WTO (MC12), która odbyła się w dniach 12–17 czerwca 2022 r. w Genewie. Celem badania jest analiza efektów tego spotkania w kontekście reformy systemu wielostronnego. W związku z tym postawiono następujące pytania badawcze: (1) Jakie ustalenia poczyniono podczas MC12? (2) Czy przyjęte uzgodnienia mają znaczenie dla przyszłej reformy systemu wielostronnego w ramach WTO? Przedstawiona w niniejszym artykule analiza pokazała, że konferencja ta, kilkakrotnie przekładana z powodu pandemii COVID-19, stanowiła potwierdzenie przełamania kryzysu negocjacyjnego z ostatnich lat, a uzgodnienia poczynione wśród przedstawicieli 164 krajów członkowskich należy traktować w kategorii sukcesu, szczególnie w obliczu towarzyszących spotkaniu napięć międzynarodowych. Wyniki analizy umożliwiają zatem głębsze zrozumienie zasad funkcjonowania systemu wielostronnego w ramach WTO oraz jego złożonych uwarunkowań.

Struktura artykułu obejmuje wstęp, dwie części przedstawiające wyniki analizy oraz podsumowanie. W wymiarze metodologicznym badanie oparto głównie na krytycznej analizie dokumentów źródłowych WTO oraz opracowań naukowych dotyczących międzynarodowej polityki handlowej.

Słowa kluczowe: Konferencja ministerialna, MC12, Unia Europejska (UE), Światowa Organizacja Handlu (WTO), reforma WTO

Since 2016, the World Trade Organization (WTO) has had 164 members² representing over 98% of world trade. Since its creation in 1995, this organisation has played a very important role in shaping the multilateral trading system. Having replaced the General Agreement on Tariffs and Trade (GATT), it covered a much broader thematic area, which corresponded with changes in the global market. Its establishment did not, therefore, entail merely taking over the previous achievements of the GATT and expanding its activities – it was the beginning of a new stage in the history of the multilateral trading system (Majchrowska 2021a: p. 67). However, the system has not changed at the same pace as global economic realities, leading to a growing impasse in negotiations that, combined with the crisis of other WTO functions, raises questions about the future of the institution that serves as the overarching negotiating forum and regulator of world trade. Therefore, given the need to reform the WTO, the Ministerial Conferences (MCs) of the Member States are also seen as a way out of the above-mentioned impasse. Such hopes were also pinned on MC12, which was finally held in June 2022 and concluded with the adoption of the "Geneva Package".

The **aim of this article** is to analyse the results of this meeting and their relevance to the WTO, in the context of the need to reform the organisation. The research hypothesis was formulated as follows: The results of MC12 represent a breakthrough from the negotiating impasse of recent years and lay an important foundation for the modernisation of the multilateral system within the WTO. In connection with the hypothesis, the following research questions were posed:

² On 29 July 2016, Afghanistan was the last country to join the WTO.

- 1) What arrangements were made during MC12?
- 2) Are the adopted agreements relevant to the future reform of the multilateral system within the WTO?

Methodology, materials and research background

For years, there has been a debate in the literature about the need to reform the WTO as an organisation that regulates international trade on a global scale. After each emerging negotiating crisis³ the need of special attention to this problem and the challenges facing such an important organisation for the development of international trade has been emphasised. This could be seen as early as after the first Ministerial Conferences, just five years after the establishment of the World Trade Organization, but the failure of MC11 was particularly significant in this context, as it was then that an internal discussion began in the WTO regarding the need to modernise the organisation. A number of reports and studies⁴ pointed to specific areas of WTO activity that needed reform. Of particular importance here, however, are the modernisation proposals outlined in the concept paper and the trade strategy of the EU, which, as a key WTO's member, is spearheading numerous efforts to modernise the multilateral system (European Commission 2018, 2021).

The aforementioned EU concept paper on WTO reform was published by the European Commission in September 2018. It refers to three main areas of the organisation's activities, i.e.: the rulemaking process (updating regulations to adapt them to the challenges of the 21st century), strengthening the WTO's monitoring role and transparency, and improving the Dispute Settlement System (DSS) at the WTO (with a special focus on the Appellate Body – AB). With regard to the latter, it is also crucial to note that, at the initiative of the EU, an alternative mechanism, the Multi-Party Interim Appeal Arbitration Arrangement (MPIA), has been established, which, in the face of the paralysis of the AB, provides for a binding, two-tiered and independent adjudication process (Majchrowska 2023) and, despite the assumed provisional nature of its duration, is an important element on the way to the restoration of the fully functioning DSS.

³ The reasons for the growing crisis at the organisation over the years are complex and involve several issues. Undoubtedly, the terms of liberalisation of market access to agricultural goods and commitments to reduce the volume of financial support for agriculture by developed countries should be considered the main point of divergence of positions. In addition, the development of a consensus is not facilitated by both the increase in the number of members of the organisation, who represent different interests, and the expansion of the scope of the negotiations themselves. The emergence of important new members such as China, India and Brazil has weakened the relevance of the existing powers, and the change in the balance of power in the world economy has also been reflected in the WTO negotiations. There has also been a significant increase in the involvement of other developing countries, compared to the situation in earlier rounds. As a result of these developments, there has been great difficulty in reconciling the defensive and offensive interests of different groups of countries, and, thus, a polarisation of positions between developed and developing countries. The slow progress in the negotiations has also been attributed to the adopted negotiating formula, namely the concept of a single undertaking, i.e. "nothing is agreed until everything is agreed," which, as it turned out, did not favourably affect the making of arrangements (Majchrowska 2021a: p. 73; Majchrowska 2021b: p. 66–68).

⁴ Valuable contributions to this debate have been made by Deere-Birkbeck and Monagle (2009), Steger (2009), Hoekman and Mavroidis (2021), Fitzgerald (2020), and Wolff (2021), among others.

Restoring the WTO's position as a leader in global trade liberalisation and its role as a central forum for trade negotiations therefore requires a strong sense of responsibility and cooperation on the part of all members of the organisation. An important role in this context is attributed to meetings at the highest level. Therefore, the eventual holding of the MC12 in June 2022 was the main rationale for choosing the topic of the study. Particularly in view of the enormous difficulties in organising this meeting and the economic and political background that accompanied it, this event calls for an analysis and summary of its impact.

Therefore, it can be assumed that the issues raised in this article are both timely and relevant, and at the same time they are insufficiently researched. The paper will highlight the implications of the arrangements and their relevance for the implementation of WTO reform in the near future. This enables a deeper understanding of the system's principles and its complex conditions. Moreover, the study is an up-to-date analysis and, from this point of view, it adds value to the existing knowledge in this field. In addition, the body of scientific work on the issues in question is much better represented in foreign literature, which corresponds to the limited number of scientific studies in this area in Poland, and thus speaks in favour of the validity of the conducted research.

Methodologically, this study was based primarily on a critical analysis of WTO source documents and academic papers on international trade policy. Materials from the Director General's opening remarks at the MC12 were also analysed to better illustrate the issue. This helped to verify the hypothesis and to provide substantive answers to the research questions.

MC12 on the background of previous ministerial meetings

The Ministerial Conference, attended by trade ministers and other senior officials from 164 member countries, is the WTO's highest decision-making body. According to the Marrakesh Agreement establishing the WTO, "the Ministerial Conference is to meet at least once every two years" (Agreement Establishing The World Trade Organization 1994). The purpose of these meetings, like the negotiating rounds, is to negotiate trade issues between individual members. They also evaluate the WTO's activities to date and outline the organisation's prospects for the future.

According to the original agreement and convening guidelines, MC12 was to be held in June 2020 in Nur-Sultan, Kazakhstan, but due to the COVID-19 pandemic, this date was not met. In April 2021, members agreed that MC12 would be held in Geneva, from November 30 to December 3. However, problems arising from the spread of a new mutation of the virus SARS-CoV-2 and related travel restrictions led to the decision by the General Council on 26 November 2021 to postpone MC12 indefinitely. Only less than six months later, the decision was made to hold MC12 on 12–16 June 2022 at the WTO headquarters in Geneva. Kazakhstan continued to co-host the event, and the meeting was extended by one day to allow for the completion of the discussions (see: WTO W/W/C).

Since an important background for analysing the results of MC12 are the arrangements of previous Ministerial Conferences, the following table synthetically presents the results of the previous meetings.

Table 1: Overview of the WTO's Ministerial Conferences.

MC	Place and time	Key outcomes
1	Singapore: December 9–13, 1996.	Information Technology Agreement (ITA) – an agreement to bring tariffs on communications technology equipment and components down to 0; addressing trade and competition and transparency in government purchases, the so-called Singapore topics.
2	Geneva: May 18–20, 1998.	A positive assessment of WTO activities; formal launch of the process of discussion and preparation for the start of the next round; declaration on global e-commerce.
3	Seattle: November 30 – December 3, 1999.	A suspension of proceedings, revealing existing contradictions among members; no formal document agreed upon by member states emerged, mainly due to disagreements between developed and developing countries.
4	Doha, November 9–13, 2001.	The decision to launch the Doha Development Round.
5	Cancún: September 10–14, 2003.	Another negotiating failure, attributed to the reluctance of rich countries to stop subsidising agricultural production and exports.
6	Hong-Kong: December 13–18 2005 r.	The main arrangements concerned mainly the level of trade-distorting domestic support (i.e. market price support and direct payments to farmers) for agri-food production, the level of tariff protection (market access) and the reduction of export subsidies (target dates for their elimination were not met).
7	Geneva: November 30 – December 2, 2009.	A very brief final report highlighting the participation of 153 members and the importance of the WTO, especially in view of the global economic crisis; topics covered: the issue of LDCs, including their free access to the markets of developed countries, the cotton issue and the LDC Waiver ⁵ for Services); an analysis of the growing number of bilateral and regional agreements in terms of their complementarity with the WTO system.
8	Geneva: December 15–17, 2011.	Documents on the accession of Russia (as well as Montenegro and Samoa) were adopted; the focus was on developing and least developed countries (among other things, issues of TRIPS waivers, the services market were raised, and issues related to accelerating WTO accession were discussed); the arrangements did not contribute to finalising the provisions of the Development Round.

⁵ Waiver is an individual exception to the MFN - it is time-bound and subject to justification.

9	Bali: December 3–6, 2013.	A breakthrough in the ongoing negotiations; the adoption of the so-called "Bali Package" consisting of 10 agreements on key negotiating issues (Trade Facilitation Agreement, agriculture, cotton trade issues, and problems of developing and least developed countries) – the first global deal signed by all WTO members.
10	Nairobi: December 15–19, 2015.	The adoption of the so-called „Nairobi Package”, which included selected elements related to the DDA negotiations; the main element of the package was provisions on agricultural export competition (elimination of agricultural export subsidies, immediately for developed countries and by 2018 for developing countries); however, a number of exceptions were provided, affecting the extension of the mentioned periods; the same decision imposes additional restrictions on the use of other agricultural export support mechanisms; the signing of the ITA-2 agreement, extending the scope of the ITA; a new agreement on cotton trade eliminating export subsidies; in terms of agricultural trade liberalisation, a commitment to further negotiations on the adoption of the so-called „Special Safeguard Mechanism” (SSM), giving developing countries the ability to raise tariffs when imports rise or prices fall.
11	Buenos Aires: December 10–13, 2017.	The commitment to adopt a fisheries subsidisation agreement by the start of the 12th MC then planned for 2019; take initiatives on e-commerce, investment facilitation, and elimination of barriers for small and medium-sized enterprises; meeting was assessed as a demonstration of disagreement between countries, tensions, and modest capacity for decision-making.
12	Geneva: June 12–17, 2022.	The adoption of the so-called „Geneva package" (discussed in detail further below).

Source: author's own elaboration based on WTO's publication concerning ministerial conferences (see: WTO W/Wa).

Looking at the effects of earlier conferences, it can be noted that conflicts of interest often led to negotiating failures and even the temporary suspension of deliberations. If we look at the most significant results of the ministerial meetings prior to MC12, we should certainly point to the decision to launch a new round of multilateral negotiations⁶, the ninth

⁶ The Doha Development Round formally began on 31 January 2002, and includes negotiations under: agriculture, services, market access for non-agricultural products, trade aspects of intellectual property rights, the relationship between trade and investment, the relationship between trade and competition policy, transparency in government purchases, trade facilitation, anti-dumping and subsidies, regional trade agreements, dispute settlement arrangements, the relationship between trade and the environment, e-commerce, countries with low economic potential, trade, debt and finance, trade and technology transfer, technical cooperation, least developed countries, special and

in the entire GATT/WTO system, but the first since the establishment of the organisation, and the adoption of the first multilateral trade agreement concluded since the establishment of the WTO – the Trade Facilitation Agreement (TFA). The agreement aims to simplify and harmonise international trade procedures, which are expected to facilitate trade in goods and lead to a significant reduction in transaction costs⁷. It is estimated that the full implementation of the TFA⁸ will lead to significant growth, as well as export diversification, especially in the least developed countries, which is also in line with the main objective of the Doha Development Round – the intensive integration of these countries into the world economy.⁹

The above table (see: *Table 1*) provides valuable information – by analysing the intervals between the MCs, it can be seen that the period that passed between MC11 and MC12 was by far the longest in the entire history of WTO operations.

The main effects of the MC12 arrangements in the context of WTO reform

At the outset, it should be noted that in her opening speech at MC12, Director General Ngozi Okonjo-Iweala pointed to six key areas for agreeing on outcomes. Among them were the TRIPS waiver, fisheries, WTO reform, agriculture and the food crisis, the extension of the moratorium on e-commerce, and the Special and differential treatment issue. She also stressed that the uncertainties and crises¹⁰, which the global economy is currently facing, are creating increasing expectations for entities such as the WTO (see: WTO 2022a). Thus, as can be seen, complex conditions of a political and economic nature undoubtedly became the backdrop for the talks held at this meeting.

differential treatment for developing countries (WTO 2001). The expansion of the list of issues and placing the problems of developing countries at the center has necessitated an adjustment in the way negotiations are conducted, which take place in the framework of so-called negotiating groups, with the aim of simplifying the negotiating process. At present, it is possible to distinguish already more than 20 such groups, such as African group, G-90, RAMs (Recently Acceded Members), Cairns group, Cotton 11, G-33 (see: WTO 2017).

⁷ According to the WTO, the benefits to the world economy from the signed agreement will range from \$400 billion to as much as \$1 trillion, due to, among other things, a 10-15% reduction in trade-related costs. This includes a reduction in the duration of export-import procedures (by almost 2 days on average) and the number of documents required (WTO 2018: p. 95).

⁸ Entry into force of the TFA required ratification by 2/3 of WTO members. This process was completed on 22 February 2017. The results of the analysis conducted five years later indicated a positive impact of the TFA on cost reduction, but overall trade costs have increased significantly over the past few years, mainly related to disruptions in transport services during the pandemic (Duval, Utoktham 2022). The latest figures demonstrate that TFA has contributed more than \$230 billion to trade growth (in the first years of implementation) especially in agriculture, and least developed countries that have made commitments have seen the largest gains (see: WTO 2023).

⁹ The adopted changes are also expected to boost global trade and global GDP growth - estimated to add as much as 2.7 p.p. to global trade growth and 0.5 p.p. to global GDP growth annually by 2030 (WTO 2018: p. 95).

¹⁰ This mainly concerns the situation in Ukraine and the related international security crisis, in addition – extreme weather events, which, combined with Covid-19 and pandemic-related bottlenecks in the supply chain, have led to an increase in food prices worldwide, compounded by the aforementioned armed conflict (see: WTO 2022a).

The final MC12 outcomes included ten decisions and declarations that addressed a number of key trade initiatives. The following summarises the fundamental elements of the so-called "Geneva Package" adopted by members, which includes:

- "an outcome document;
- a package on WTO response to emergencies, comprising:
 - A Ministerial Declaration on the Emergency Response to Food Insecurity;
 - a Ministerial Decision on World Food Programme (WFP) Food Purchases Exemptions from Export Prohibitions or Restrictions;
 - a Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics;
 - a Ministerial Decision on the Agreement on Trade-related Aspects of Intellectual Property Rights;
- a Decision on the E-commerce Moratorium and Work Programme;
- an Agreement on Fisheries Subsidies." (WTO WWwC).

Two decisions were also adopted (on the *Work Programme on Small Economies* and on the TRIPS non-violation and situation complaints), as well as a *Sanitary and Phytosanitary Declaration for the Twelfth WTO Ministerial Conference: Responding to Modern SPS Challenges*.

An analysis of the effects of MC12 should certainly begin with the agreement to reduce fisheries subsidies. The reason for this is, firstly, that this agreement is only the second (after the TFA discussed earlier) in the history of the WTO to be concluded by all members of the organisation, and secondly, it is the first agreement relating to sustainable development (Sustainable Development Goal, SDG). Moreover, negotiations in this regard were initiated more than two decades ago, as reflected in the provisions of the 2001 Doha Development Agenda, which aimed to "clarify and improve" existing WTO disciplines on fisheries subsidies¹¹ taking into account the importance of the sector to developing countries. Additional arrangements were made during the aforementioned MC6 in Hong Kong, and, although the topic was a key element of the negotiations at MC11 as well, an agreement was not reached at that time. Only the difficult and protracted talks at MC12, based on previously prepared documents¹² allowed a consensus to be reached and a meaningful multilateral agreement to stop the use of harmful fisheries subsidies to be agreed upon.

The fisheries subsidy agreement therefore implements the MC11 mandate and SDG 14.6, which is a part of the *2030 Agenda for Sustainable Development* and affirms the WTO's role in this regard.

The signed agreement includes, among other things, a ban on subsidies that contribute to illegal, unreported and unregulated fishing (Agreement on Fisheries Subsidies 2022: art. 3) and includes unprecedented transparency provisions.¹³ It also includes a

¹¹ "Participants shall also aim to clarify and improve WTO disciplines on fisheries subsidies, taking into account the importance of this sector to developing countries" (WTO 2001: par. 28).

¹² A few days before the start of the meeting in question, the MC12 chairman presented a new draft text.

¹³ In addition to regular, periodic notifications of subsidies under the Agreement on Subsidies

complete ban on subsidies for unregulated fishing on the high seas, which is particularly important for vulnerable areas that lack a coordinated fisheries management system. The agreement, on the other hand, did not cover issues such as reducing subsidies for shipbuilding or fuel purchases. However, members agreed to continue negotiations on outstanding issues, with an eye toward the MC13.¹⁴

Developing countries were given a two-year transition period to comply with the provisions of the agreement. It also announced the creation of a special fund for technical assistance and capacity building for developing countries to implement the agreement¹⁵. For the agreement to take effect, two-thirds of the members must ratify it. As of September 18, seventeen members have formally accepted the protocol to the fisheries subsidies agreement by filing an “instrument of acceptance” with the WTO, including Japan, the US, the EU, China and Canada (WTO W/W/b).

Another significant result of the negotiations is the extension of the moratorium on the imposition of tariffs on e-commerce, first agreed in 1998, which is expected to contribute to the further development of the digital economy. However, the agreement reached was a compromise between supporters and opponents of this debate¹⁶. Therefore, with some reservations¹⁷, the moratorium was eventually extended until the MC13, and its provisions oblige members to revitalise and intensify their work programme in this regard.

Some progress was also made on food security during the talks. In a joint declaration, WTO members pledged to avoid unjustified export restrictions on food, as well as to improve the transparency of any export restrictions that occur (*Ministerial Declaration on the Emergency Response to Food Insecurity*, see: WTO 2022e). In addition, a decision was made to fully exempt humanitarian purchases for the World Food Programme from export restrictions. Thus, the declaration was a confirmation of WTO members' readiness to respond to certain emergency circumstances¹⁸. Unfortunately, however, the organisation's members were unable to overcome their differences of opinion on the agricultural work programme, with the result that the last of the three agricultural texts submitted to the negotiating table – the draft decision on agriculture – was not adopted.

and Countervailing Measures, each member is required to provide information relevant to the implementation of the agreement. This information includes e.g. the type or type of fishing activity for which the subsidy is provided, or information on the vessels benefiting from the subsidy (Agreement on Fisheries Subsidies 2022: p. 6).

¹⁴ The next ministerial conference is to be held in Abu Dhabi, 26–29 February 2024.

¹⁵ The Agreement stipulated the establishment of a WTO Fisheries Financing Mechanism for targeted technical assistance and capacity building to help developing and least-developed country members implement the Agreement (Agreement on Fisheries Subsidies 2022: art. 7). The fund became operational on 8 November 2022. The contributors to date include Australia, Japan, Canada and EU countries.

¹⁶ Some states, mainly developing countries, have indicated the need of changes in this regard. In particular, India, Pakistan, Sri Lanka, Indonesia, and South Africa have not supported extending the moratorium.

¹⁷ “Should MC13 be delayed beyond 31 March 2024, the moratorium will expire on that date unless Ministers or the General Council take a decision to extend” (Work Programme on Electronic Commerce, see: WTO 2022g).

¹⁸ The issue is mainly related to the limitation of supplies as a result of situation in Ukraine and problems with Ukrainian grain exports (Ministerial Decision on World Food Programme Food Purchases Exemptions from Export Prohibitions or Restrictions, see: WTO 2022d).

One of the important provisions of the Geneva package under discussion was also the adoption of a *Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics* (see: WTO 2022f). In response specifically to requests from developing countries, ministers agreed to waive certain procedural obligations under the TRIPS Agreement (TRIPS waiver) – allowing the suspension of intellectual property rights for COVID-19 vaccines, for the next five years (*Ministerial Decision on the TRIPS Agreement*, see: WTO 2022c). The decision, which was adopted, is expected to contribute to more efficient production and distribution of these preparations around the world, which could make it much easier to stop the development of a pandemic. The aforementioned agreement should be viewed in yet another slightly different context, namely a reference to developing country status. Developing countries that have the capacity to produce these preparations have been encouraged to make a binding commitment not to take advantage of the provisions of the above-mentioned decision (WTO 2022c: footnote 1). This is important in the context of China, which has made such a declaration and still considers itself a developing country.¹⁹

However, one of the most complex issues and significant challenges remains the reform of the WTO, as its core functions of monitoring, negotiation and dispute settlement have not evolved to adequately reflect changes in the global economy. These aspects were also addressed by the DG during her opening remarks, emphasising the need to modernise the organisation in the indicated areas of its activities.²⁰

Despite the lack of concrete agreements in this respect, members committed themselves to a thorough reform of the WTO that takes into account all areas of the organisation's operations. WTO members agreed, writing in the *MC12 Outcome Document* (WTO 2022b: art. 3), to conduct a comprehensive review of all WTO functions to ensure that the organisation is able to respond more effectively to the challenges facing the multilateral trading system. The review will be conducted by the WTO General Council and its subsidiary bodies, with the aim of submitting possible reform proposals to the MC13.²¹

¹⁹ This relates to the new "opt-out" approach, which allows members to voluntarily relinquish the developing country status on a case-by-case basis. This approach could also further contribute to results by allowing parties to a particular multilateral agreement to stay out of it if they are unable or unwilling to join at a given time. Members choosing to withdraw from an agreement could ultimately benefit from and be bound by its provisions, having decided to join a particular agreement. This would provide additional flexibility to the WTO's negotiating function (González 2022).

²⁰ The DG stressed the WTO's preference for the principle of single undertaking. However, she recalled that this approach has repeatedly been a source of negotiating impasse, which implies the need to consider a different set of tools, consisting of different negotiating instruments or approaches, which would modernise the negotiating function. A key part of the reform is to make sure that the WTO works for developing and least developed countries. That is why it is so important to reaffirm the relevance of special and differential treatment in the WTO. The priority for most members, however, is reform of the dispute settlement system (WTO 2022a).

²¹ It should be noted that informal talks on reform are underway (General Council 2023a). In turn, at the General Council meeting held in the second half of July 2023, WTO members examined a "roadmap" for progress in the organisation's reform talks. They outlined emerging milestones requiring analysis to ensure a successful resolution of the WTO reform issue at MC13. Proponents or advocacy groups presented eight reform proposals to members, providing an opportunity for constructive debate on the modernisation agenda (General Council 2023b).

Significantly, however, a commitment was made to restore a fully functioning dispute settlement system no later than 2024 (WTO 2022b: art. 4). This is particularly important since the DSS was considered a central pillar of the multilateral trading system, a key achievement of the WTO²² and the "jewel in the crown" of the organisation (Hoekman, Mavroidis 2021: p. 9). However, by blocking the appointment of new judges, the United States²³ paralysed the WTO's central appellate body (Appellate Body, AB) in its rulings in international disputes, depriving the global trading system of a two-stage, enforceable dispute settlement mechanism. At the end of 2019, the terms of two of the three AB judges²⁴ expired, causing it to lose its authority to adjudicate trade disputes, disorganising the operations of a vital area of the WTO's functioning. As mentioned earlier, to solve this issue, an alternative mechanism called the Multi-Party Interim Appeal Arbitration Arrangement (MPIA) was established at the initiative of the EU, providing a binding, two-stage and independent adjudication process (MPIA 2020). Therefore, the commitment made to resolving the AB impasse and strengthening the dispute settlement function is critical for preserving the WTO's relevance and is, thus, a key element of the organisation's future reform.

Conclusions

The weakening of the WTO's position and the need of comprehensive reform in all key areas of its activities raise a dilemma regarding the organisation's present and future role. This is particularly crucial in the context of its contribution to the development of the world economy and the fight against protectionism, which may be a priority in the current global economic situation.

The analysis presented in this article demonstrated that the effects of MC12 in the form of the adopted "Geneva package" strengthened the credibility of the organisation and confirmed that it is possible to achieve the stated goals even in the face of international tensions.

The aforementioned package contains crucial decisions that address both current challenges (including pandemics and the situation in Ukraine) and topics that have been negotiated for many years – in particular, the symbolic importance of concluding the *Agreement on Fisheries Subsidies* should be highlighted, as it represents a historic achievement. It is the first fully achieved Sustainable Development Goal (SDG), the first WTO multilateral agreement focusing on the environment, the first broad, binding, multilateral agreement on sustainable development of the oceans, and only the second agreement reached at the WTO since its creation, after the TFA. It is also important that

²² While a dispute settlement procedure existed in the "old" GATT, rulings were more easily blocked, and many cases were prolonged without resolution. The Uruguay Round Agreement introduced a more structured process with clearly defined steps in this procedure and a timetable to be followed in resolving disputes.

²³ A comprehensive document has been issued pointing out numerous flaws in the operation of the AB. (More on the subject – in the report: USTR 2020).

²⁴ The normal functioning of the seven-member panel requires the presence of three members. The Appellate Body is currently unable to hear appeals due to ongoing vacancies.

the agreement illustrates the founding objective of the WTO, as stated in the preamble to the Marrakesh Agreement establishing the WTO, which refers to the use of trade to promote sustainable development.

The challenge remains the need of fundamental reform, i.e. streamlining and strengthening the organisation's negotiating, monitoring and dispute settlement functions, in order to restore and maintain the WTO's critical role as a global governance institution coordinating the world trade. Despite the lack of concrete arrangements in this regard, the members committed to modernise the WTO and, thus, also began the institutional process of reform, recognising that all of the organisation's core functions need to be updated in order for the WTO to continue to serve its purpose. Therefore, in the face of such a difficult situation in the global economy, the very fact of obtaining a mandate for reform should be considered a momentous achievement, as it confirms that reform is feasible.

However, it should be borne in mind that until an agreement on reform is reached, it will also be crucial to maintain the aforementioned interim arrangements, such as the MPIA, which is crucial to maintaining the effectiveness of the DSS and is, thus, a critical component of future reform of the multilateral trading system.

The WTO's activities in the near future will also be significantly hampered by the current complicated international situation. Therefore, taking concrete steps to re-establish the organisation's credibility is necessary so that the importance and contribution that the WTO has made to the development of the world economy is not lost. Indeed, a stable trade environment with the centrality of the WTO is essential, especially in view of the challenges ahead. That is why the successful outcome of MC12 is so important. Despite widespread scepticism about the organisation's ability to achieve it, WTO members have shown that they have been able to respond to emergencies and pressing global problems. The agreements reached are therefore also key to the future reform of the multilateral system within the WTO, as they lay the groundwork for supporting the multilateral trading system and provide a platform for further discussion that can help restore the organisation's relevance. Indirectly, they may also provide an opportunity to conduct effective negotiations and, thus, revitalise the system, confirming the WTO's ability to function with the participation of more than 160 members. Their involvement reflects the growing importance of the global economy. Broad international cooperation will, therefore, be crucial. This ability will be verified soon, at MC13, scheduled for February 2024. Let's hope the "thirteen" turn out to be lucky.

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➔ References:

- AGREEMENT ESTABLISHING THE WORLD TRADE ORGANIZATION (1994), signed in Marrakesh, Morocco, on April 15, 1994, http://www.wto.org/english/docs_e/legal_e/04-wto.pdf (25.08.2023).
- AGREEMENT ON FISHERIES SUBSIDIES (2022), Ministerial Decision of 17 June 2022, WT/MIN(22)/33, WT/L/1144, <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN22/33.pdf&Open=True> (22.06.2022).
- DEERE-BIRKBECK Carolyn, MONAGLE Catherine (2009), *Strengthening Multilateralism: A Mapping of Proposals on WTO Reform and Global Trade Governance*, Discussion Draft, November 2009, ICTSD, Global Economic Governance Programme, <https://www.files.ethz.ch/isn/139553/StrengtheningMultilateralism.pdf> (30.11.2009).
- DUVAL Yann, UTOKTHAM Chorthip (2022), *Has the WTO Trade Facilitation Agreement helped reduce trade costs? An ex-post analysis*, "Trade, Investment and Innovation Working Paper Series", no. 2, July 2022, ESCAP, <https://www.unescap.org/kp/2022/has-wto-trade-facilitation-agreement-helped-reduce-trade-costs-ex-post-analysis> (29.07.2022).
- EUROPEAN COMMISSION (2018), *European Commission presents comprehensive approach for the modernisation of the World Trade Organisation*, https://ec.europa.eu/commission/presscorner/detail/en/IP_18_5786 (18.09.2018).
- EUROPEAN COMMISSION (2021), Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: *Trade Policy Review – An Open, Sustainable and Assertive Trade Policy*, COM(2021) 66 final, Brussels, 18.02.2021.
- FITZGERALD Oonagh E. (2020), *Modernizing the World Trade Organization*, Centre for International Governance Innovation, <https://www.cigionline.org/articles/modernizing-world-trade-organization/> (20.04.2020).
- GENERAL COUNCIL (2023a), *DG Okonjo-Iweala: Delivering meaningful development outcomes key to successful MC13*, https://www.wto.org/english/news_e/news23_e/gc_08may23_e.htm (08.05.2023).
- GENERAL COUNCIL (2023b), *Members examine "road map" for MC13 on the WTO's reform of its deliberative function*, https://www.wto.org/english/news_e/news23_e/gc_25jul23_e.htm (25.07.2023).
- GONZÁLEZ Anabel (2022), *WTO Trade Thoughts from Geneva Blog, A New Formula to facilitate negotiated outcomes at the WTO*, www.wto.org/english/blogs_e/ddg_anabel_gonzalez_e/blog_ag_29jun22_e.htm (29.06.2022).
- HOEKMAN Bernard, MAVROIDIS Petros C. (2021), *WTO Reform: Back to the Past to Build for the Future*, „Global Policy”, vol. 12, supplement 3, DOI: 10.1111/1758-5899.12924
- MAJCHROWSKA Elżbieta (2021a), *EU's Activities for the Modernisation of the WTO – Towards the Reconstruction of the Organization's Position in the World Economy*, „Krakowskie Studia Międzynarodowe”, vol. XVIII: 2021, no. 2, DOI: 10.48269/2451-0610-ksm-2021-2-003
- MAJCHROWSKA Elżbieta (2021b), *The appointment of a new WTO leader – an opportunity to reform and restore the organization's position in the world economy*, „Przegląd Zachodni”, no. 2 (379).

- MAJCHROWSKA Elżbieta (2023), *Wielostronny tymczasowy arbitraż odwoławczy (MPIA) i jego znaczenie dla reformy Światowej Organizacji Handlu*, „Roczniki Administracji i Prawa”, vol. XXIII, z. 3. DOI: 10.5604/01.3001.0053.9514
- MPIA (2020), *Statement on a Mechanism for Developing, Documenting and Sharing Practices and Procedures in the Conduct of WTO Disputes, Multi-Party Interim Appeal Arbitration Arrangement pursuant to Article 25 of the DSU*, https://docs.wto.org/dol2fe/Pages/FE_Search/FE_S_S009-DP.aspx?language=E&CatalogueIdList=263504 (30.04.2020).
- STEGER Debra (ed.) (2009), *Redesigning the World Trade Organization for the Twenty-First Century*, CIGI, Wilfrid Laurier University Press, IDRC 2009, <https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/40859/IDL-40859.pdf?sequence=1&isAllowed=y> (20.08.2023).
- USTR, United States Trade Representative (2020), *Report on the Appellate Body of the World Trade Organization*, February 2020, https://ustr.gov/sites/default/files/Report_on_the_Appellate_Body_of_the_World_Trade_Organization.pdf (17.08.2023).
- WOLFF Alan Wm. (2021), *The Pressing Need for WTO Reform*, Peterson Institute for International Economics (PIIE), <https://www.piie.com/commentary/speeches-papers/pressing-need-wto-reform> (17.11.2021).
- WTO (2001), *Doha WTO Ministerial 2001*, Ministerial declaration, adopted on 14 November 2001, WT/MIN(01)/DEC/1, https://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_e.htm (20.11.2001).
- WTO (2017), *Groups in the WTO*, http://www.wto.org/english/tratop_e/dda_e/negotiating_groups_e.pdf (18.12.2017).
- WTO (2018), *Annual report 2018*, https://www.wto.org/english/res_e/booksp_e/anrep18_e.pdf (20.08.2023).
- WTO (2022a), *MC12 Opening Session: Opening remarks by the Director-General*, https://www.wto.org/english/news_e/spno_e/spno26_e.htm (12.06.2022).
- WTO (2022b), *MC12 Outcome Document*, adopted on 17 June 2022, WT/MIN(22)/24, WT/L/1135, <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN22/24.pdf&Open=True> (22.06.2022).
- WTO (2022c), *Ministerial Decision on the TRIPS Agreement*, adopted on 17 June 2022, WT/MIN(22)/30, WT/L/1141, <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN22/30.pdf&Open=True> (22.06.2022).
- WTO (2022d), *Ministerial Decision on World Food Programme Food Purchases Exemptions from Export Prohibitions or Restrictions*, adopted on 17 June 2022, WT/MIN(22)/29, WT/L/1140, <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN22/29.pdf&Open=True> (22.06.2022).
- WTO (2022e), *Ministerial Declaration on the Emergency Response to Food Insecurity*, adopted on 17 June 2022, WT/MIN(22)/28, WT/L/1139, <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN22/28.pdf&Open=True> (22.06.2022).
- WTO (2022f), *Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics*, adopted on 17 June 2022, WT/MIN(22)/31, WT/L/1142, <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN22/31.pdf&Open=True> (22.06.2022).

WTO (2022g), *Work Programme on Electronic Commerce*, Ministerial Decision, adopted on 17 June 2022, WT/MIN(22)/32, WT/L/1143, <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN22/32.pdf&Open=True> (22.06.2022).

WTO (2023), *Trade Facilitation Agreement has increased trade by over US\$ 230 billion, new study finds*, https://www.wto.org/english/news_e/news23_e/fac_27mar23_e.htm (22.03.2023).

WTO (WWWa), *Ministerial Conferences*, http://www.wto.org/english/thewto_e/minist_e/minist_e.htm (19.08.2023).

WTO (WWWb), *Members submitting acceptance of Agreement on Fisheries Subsidies*, https://www.wto.org/english/tratop_e/rulesneg_e/fish_e/fish_acceptances_e.htm (20.07.2023).

WTO (WWWc), *Twelfth WTO Ministerial Conference*, https://www.wto.org/english/thewto_e/minist_e/mc12_e/mc12_e.htm (29.07.2023).