



The future of the WTO: cooperation or confrontation

There is a danger of further escalation in the tariff war.
André Wolf considers protectionism and the future of
the World Trade Organization

The world in 2018 has witnessed a gradually intensifying trade conflict. It started with a series of threats and counter threats and ended in the imposition of retaliatory tariffs by the US on their trading partners (and vice versa). The worsened climate in international trade relations evokes the danger of a further escalation of the tariff war. In a world characterized by global supply chains, such an escalation could have highly disruptive effects on the structure of all major economies.

In addition to this visible threat, there are also more subtle factors indicating that protectionism is on the rise. The Global Trade Alert Initiative (GTAI) records the total amount of (tariff-based and non-tariff-based) policy interventions of a country designed either to liberalize or to inhibit cross-border trade.

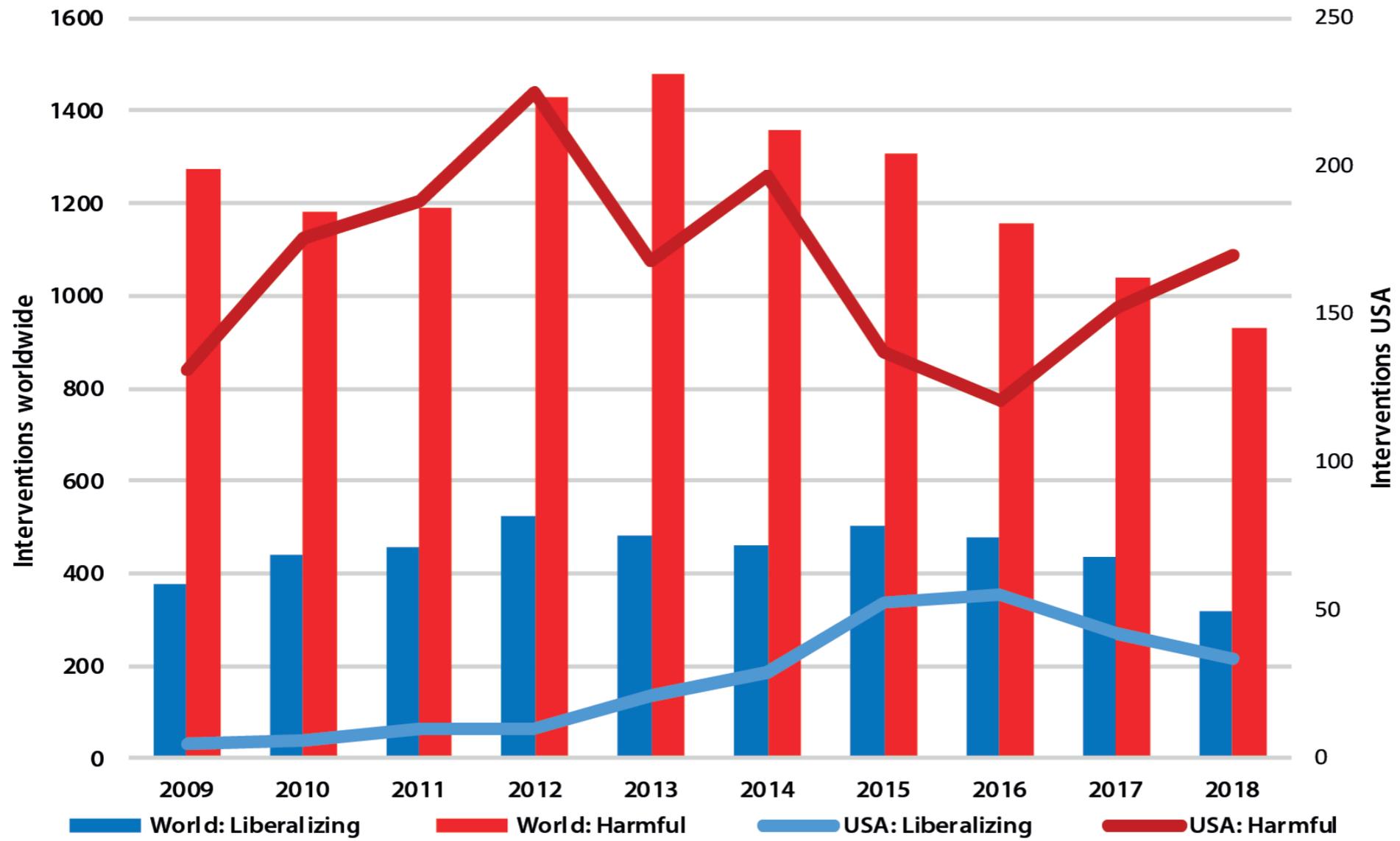
At the global level, harmful interventions have clearly dominated over the past years, as can be seen in Figure 1. This also holds for the US during the years of the Obama Administration, putting the perceived change in the policy stance from Obama to Trump a bit into perspective.

Among the most popular harmful instruments were not tariffs, but subsidies and technical regulations favouring domestic firms, which indicates that governments increasingly turn to more hidden ways of shielding domestic markets from foreign competition.

At the same time, and in parts also as a reaction to protectionist tendencies in the major economies, the number of regional trade agreements has continued to rise in recent years. The scope of these agreements has widened further. They not only eliminate tariffs in intra-regional trade, but also liberalize trade in services and include far-reaching cooperation in regulatory issues.

Figure 1. Number of policy interventions

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Source: GTAI (2018)

The share of international trade taking place under such deep agreements has risen significantly (UNCTAD, 2018). Regional agreements, however, are no substitute for trade liberalization at the global level, as the emergence of regional trade blocs has a distortionary impact on trade outside the integration area. Therefore, a multilateral answer to the current conflicts has to be given, asking for initiatives within the realm of the World Trade Organization (WTO).

It is now the prime responsibility of the leading economies to use this window of opportunity to enter into serious negotiations on the future of the WTO

Unfortunately, in this delicate situation, the WTO faces its biggest crisis yet. In general, the WTO performs three main functions for the global trade system: it provides a platform for multilateral trade talks, it monitors compliance with existing trade agreements and it offers member states the opportunity for dispute settlement.

By now, all three functions are subject to serious criticism. The ability of the WTO to promote far-reaching liberalization agreements seems to have declined continuously after the beginning of the Doha Development Round in 2001. A major reason for the lack of significant results is the irreconcilable confrontation between developed and developing member states on trade in agricultural and industrial goods.

While developed countries are reluctant to open their highly-subsidized domestic agriculture to foreign competition, developing countries are not willing to grant market access for industrial products from the developed world, insisting on their right to grow within a protected market environment.

Furthermore, many developing countries refuse to engage in talks about issues related to trade in services and the protection of intellectual property. Concerning the monitoring function, a lack of transparency with respect to non-tariff measures is bemoaned. Member states are obligated to notify the WTO Secretariat of any national laws and regulations that could represent obstacles to cross-border trade.

However, compliance is unsatisfactory, especially for measures with indirect influence on trade flows like subsidies to domestic firms. As these kinds of measures can potentially exert very distortionary impacts on trade flows, the current state of insufficient knowledge invites countries to undermine the global trade regime, thereby endangering the general willingness to engage in multilateral agreements.

Another point of contention in the heated debate concerns the role of the dispute settlement body. The appellate body, the body that hears appeals from the reports produced by dispute settlement panels, has melted down from its regular number of seven to just three judges. A blocking of the appointment of new judges by the US Administration has led to this situation.

The US view this as an act of protest against what they perceive as an over-stepping of authority on the part of the judges. They are accused of having interfered with national trade law on several occasions and of unnecessarily revisiting factual findings of previous panels, contributing to a prolongation of proceedings.

Moreover, the US put the general need for an appellate body in dispute settlement into question, arguing that it renders the whole process inefficient. They even threaten to ignore any rulings that haven't been issued within the formally required time span of 90 days.

Finally, one general source of discontent is the increasing imbalance caused by the high share of member states with 'developing country' status. About two thirds of the WTO's 164 member states currently claim this status.

It is associated with a range of privileges, above all an exemption from the principle of reciprocity, ie. developing countries which are granted better market access by developed countries are not obliged to make equivalent concessions. Other forms of preferential treatment include additional time to fulfill certain commitments and the provision of legal assistance in WTO disputes by the WTO Secretariat. A major issue is that this status is not granted based on any transparent set of indicators, but on self-assessment of a country.

Therefore, these otherwise reasonable provisions increasingly undermine the coherence of the trading system, by creating incentives to circumvent its basic principles. Particular controversy surrounds the maintenance of the

developing country status of China. The justification expressed by Chinese officials is that despite persistently high rates of economic growth, the country is in many of its regions still characterized by a lack of modern infrastructure and innovation capacities.

By contrast, the US Administration simply regards this state as a means to protect China's unfair trade practices. Threatening countries to withdraw their status, however, is likely to destroy further confidence in the fairness of WTO rule in the developing world.

Dissatisfaction with the current system has risen to an extent that the US government not only takes unilateral actions that more or less openly violate existing agreements. President Trump even contemplates about officially leaving the WTO, if no structural reforms are carried out soon.

In this situation, the European Union (EU) has decided to put the American willingness to cooperate to a test by coming forward with an own reform agenda for the WTO, picking up many issues addressed by the US. On September 18th the European Commission issued a corresponding concept paper. It contains a list of concrete reform proposals. In order to increase transparency, incentives for member states to deliver all the necessary information on policy measures shall be improved.

For instance, a new measure showing features of a subsidy could be automatically treated as a subsidy under WTO terms, leaving the responsibility to prove the opposite to the government. Moreover, the scope of trade policies covered is proposed to be extended to areas like digital services and ecommerce as well as to the conflictual topic of forced technology transfer.

To bring back dynamics to multilateral negotiations, the role of the WTO Secretariat is suggested to be strengthened, allowing it to seize the initiative in preparing future talks.

Finally, the commission stresses the need for plurilateral initiatives, ie. agreements between subgroups of WTO members under the umbrella of the general WTO framework, to set the pace for a deepening of trade relations (EU, 2018). As opposed to regional free trade agreements negotiated outside the WTO, these initiatives remain open for all WTO members to join, thereby preventing the formation of trade blocs.

In case of open initiatives like the International Technology Agreement (ITA), the benefits are even extended to non-signatories. The hope is that these initiatives can act as laboratories to test new forms of cooperation among WTO members, providing a boost to multilateralism by inducing more and more countries to join successful initiatives.

At a ministerial meeting held in Ottawa on October 23rd and 24th, a broad alliance to back the EU proposals seems to have emerged. It consists apart from the European Union of 12 WTO member states, including big economies like Japan and Brazil. In the Joint Communiqué, they stress their belief in the necessity of a rules-based multilateral trading system, a statement directed against the unilateral approach of the US.

In this, they regard the dispute settlement system as a central pillar, asking US representatives to stop their blockage of a reappointment of judges. At the same time, they call for a revitalization of the negotiating function of the WTO in order to overcome the current stalemate in the Doha Round (WTO, 2018).

However, under the current regime, any general reform of the system requires unanimous consent of WTO members. This makes it particularly difficult to implement changes to the status quo. Nevertheless, if there is one

good thing about the recent tensions, then it is the fact that they finally made the urgent need for structural reform obvious to everyone.

It is now the prime responsibility of the leading economies to use this window of opportunity to enter into serious negotiations on the future of the WTO. The proposals made by the EU Commission can serve as a reasonable basis for this. The success of this venture will crucially depend on whether both the US and the large group of developing countries will be brought on board.

This is the more likely, the less exclusive opportunities for intensified cooperation within a new framework will appear to be. Higher transparency of negotiation processes as well as a stronger involvement of societal pressure groups are equally necessary to achieve some form of consensus on the future organization of global trade. ■

André Wolf is head of International Economics and Trade research at the Hamburg Institute of International Economics (HWWI)

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