



# GLOBALISATION OUTLOOK

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## SUMMARY

- The backlash against the WTO has its origins in long-standing grievances that have not been adequately addressed
- Over time, the WTO has acquired for itself judicial and law-making powers that were never agreed by its members. A backlash was inevitable
- The WTO is now caught between potential paralysis on one hand and the loss of political legitimacy on the other
- Big tech is likely to see a substantial increase in regulation and data protection that could continue to break down the possibility of globally uniform business models
- A spat between trade negotiators has set back US-EU trade relations
- Universities get caught in the globalisation debate as issues arise relating to academic freedom and the security implications of research collaborations

Does the WTO have a future? And, if so, what could it look like?

This question has been on the mind of many over the last year. Many column inches have been consumed in discussion. Yet we seem no closer to any kind of consensus.

In this newsletter we review and comment on some recent commentary on these questions.

We also comment on the recent spat in US-EU trade discussions and some other developments in a de-globalising world.

## WHAT COULD THE FUTURE OF THE WTO LOOK LIKE?

*The surfacing problems with the WTO and its role are not new. They have been left to fester for too long*

### Can the WTO dispute settlement function be restored?

This is the question addressed in a recent [paper](#) by Robert McDougall.

For anyone interested in the real issues plaguing the organization and its dispute resolution mechanisms, McDougall's paper is worth reading in full. Here we focus on what seem to us to be the fundamental issues raised in the paper and proposed solutions.

#### *1. US concerns are not new and have largely been ignored*

The world is finally coming round to the fact that US discontent with the WTO and its dispute resolution mechanisms is not purely a phenomenon that can be conveniently attributed to the Trump wrecking ball. US concerns have been obvious for some time and have not been taken seriously either by the WTO or by its members.

This is all now coming home to roost when the White House is occupied by a president who takes a more robust approach to US grievances than his predecessors, is not convinced that the strictures of multilateralism serve US interests, and is more determined to maintain American supremacy in the face of a rapidly emerging China.

*McDougall states:*

*“Other members, and in more recent years the [WTO] itself, have never adequately acknowledged this concern or engaged with the United States in a genuine discussion of how to accommodate diverging expectations...”*

## 2. *The fundamental question*

*The WTO has assumed a judicial and law-making role by stealth and without any appropriate mechanism of political accountability*

McDougall's fundamental insight is to raise the following question: Is the WTO primarily to be considered as a forum for arbitration; or is it to be have a binding judicial function that occasionally even strays into law-making – or some mixture of both?

For a body that has over 100 members, each with a veto, and among whom unanimous agreement on almost anything is by-and-large impossible, it is tempting for supra-national bodies to force issues by adopting a judicial approach and straying into law-making.

However, judicialization and law-making without appropriate political oversight and without the panoply of institutions that surround legitimised judicial bodies is a perilous endeavour. As we point out in our book, it is such increasingly interventionist approaches taken by multilateral bodies that are not seen to have the political legitimacy for such action that has turned many against the concept of 'global governance'.

The US has always conceived of the WTO as a forum for arbitration. Indeed, nothing in the agreements ever gave the WTO judicial or law-making functions. However, the WTO has steadily accumulated these powers almost by stealth.

*Arbitration or judicialisation?*

*Or maybe some difficult combination of both?*

Countries who are in a less powerful position than the US have not objected. Rather they may take the view that without judicial authority, the WTO is unable to create a level playing field and the strong will always dominate the weak.

This arbitration vs judicial position is the crucial dilemma facing the multilateral trading system and the future role of the WTO.

In the past, this question may not have mattered as much as it does today since, in reality, the US and other large countries have always dominated the rules-based system by exercising outsized political influence on multilateral bodies. This is changing as the global balance of power and the shape of blocs and alliances have shifted and as China has become a major player in an international trading system that was only ever intended to accommodate market economies.

## 3. *Solutions?*

In attempting to solve the dilemma between the WTO as a forum for arbitration as against a judicialized body, McDougall puts forward a series of

possible technical reforms that are intended to balance a degree of increased political control against the risk of reverting to either a power based system or institutional paralysis.

McDougall's suggested reforms are comprehensive and well argued. They do, however, rest on one assumption: that there will be broad political support for the political balance that he is in effect recommending through his technical suggestions. One could argue that this is a technocratic framing of what is, in effect, a purely political set of questions.

*Is it wise to continue to address political questions by non-transparent technocratic means?*

In the current feverish times, it may be wise to try to avoid being explicit about the political questions and to try back-door resolution by technocratic means. Yet, it could be argued that taking that approach of disguising political decisions as technocratic ones, and avoiding open political debate for fear of where it might lead, is exactly what has led to mission creep at the WTO and landed us in the current situation where the whole system might well collapse.

*"The current situation...suggests that certain weaknesses, and certain grievances, should have been taken more seriously over the years"*

In light of that, one has to wonder whether things have been allowed to go too far, and whether too much trust has been squandered, for a new political balance to be viably achieved.

*Three big issues yet to be resolved: (1) China, (2) China, (3) China*

Neither does the paper deal with the other elephant in the room – the accession to the WTO of China with its state directed economy, and the impact that has on the credibility of a supposedly rules-based system that was always only intended for market economies.

#### *4. An insoluble dilemma?*

*Squaring the circle of paralysis vs legitimacy*

The WTO is caught in the same seemingly insoluble dilemma that plagues all supra-national bodies. A decision-making structure that requires unanimity risks paralysis. Yet moving to some sort of majority or qualified majority system risks, over time, alienating those who repeatedly get outvoted – as we have seen with the EU.

We cannot help believing that the same conclusion we reached when [reviewing](#) Paul Tucker's suggested reforms intended to reset the balance between politics and technocracy in the operation of central banks also applies here:

*“While the [paper] is a bold attempt to tackle a difficult issue, one is left with the impression that structural problems with our economic and political systems are just too entrenched to allow for the kind of incremental technocratic solutions suggested by [McDougall] himself.”*

## THE US AND THE EU

*Nobody was taken in by the outward show of warmth between Presidents Trump and Juncker*

While much was made of the seeming warmth between Presidents Trump and Juncker during the latter’s visit to the White House three months ago, we have always remained sceptical that this would translate to an easy path towards a transatlantic trade agreement.

Recently, we had the first blow-up with Commissioner Malmstrom’s ill-advised statement that the US had not shown “any big interest” in talks.

Commissioner Malmstrom:

*“So far the US has not shown any big interest there, so the ball is in their court. We have not started negotiating yet.”*

US Trade Secretary Wilbur Ross

*“It’s as though she was at a different meeting from the one we attended.”*

*“[The statement that] the US has been the one slowing things down is simply inaccurate.”*

Gordon Sondland, US ambassador to the EU

*described “complete intransigence” on the part of the EU team.*

*Hoping that all will be well once Trump leaves office is a dangerous approach*

The suspicion on the US side is that the EU is playing for time and hoping to get past President Trump’s term of office.

If that is, indeed true, it would represent a big mistake.

First, if this view is allowed to take hold among the US administration, we can only expect fierce unilateral action in the short term.

Second, as we outlined above, US discontent with its position in world trade is not simply a Trump phenomenon. Assumptions that

- (i) Mr Trump will be a one-term president, and

(ii) that things will return to 'normal' after he's gone,

may well both be totally mistaken.

## THE DE-GLOBALISATION OF BIG TECH

*The globalization of big tech is reaching its limits*

In many of our minds, Big Tech companies are the epitome of globalisation. They are certainly that in certain aspects – their wide reach, their extreme tax arbitrage practices, and so on.

But they are reaching their limits.

China has largely stopped their entry and has built its own online champions over which it is now exercising increasing control. In 2016, India stopped Facebook adopting its 'free' service model.

Privacy regulations will only grow and may end up being different across jurisdictions creating a compliance nightmare for tech companies.

Microsoft has declared that it will apply Europe's GDPR worldwide while Apple is lobbying for it to become the de facto global standard. More data-dependent Alphabet continues to resist any form of regulation proposing instead a regulatory approach that is largely meaningless. Facebook, on the other hand, has offered users a choice of giving up some rights or deleting their account – maybe reflecting a hubristic belief in the value of its products and the unassailability of its market position.

*Has Big Tech's arrogance unleashed the political animal spirits?*

Big tech is now firmly in the political and regulatory firing line – a situation it largely brought upon itself through extreme arrogance. These business leaders should understand that, like Silicon Valley, politics too has its animal spirits. Once they are unleashed, they can be fierce and utterly unpredictable. Millions of lobbying dollars may end up having little effect now that these corporations seem to have managed to alienate almost everyone.

The idea of being able to achieve global harmonization of data regulation is likely for the birds – at least in the short term. Neither does anyone take in the slightest bit seriously the claims of companies like Alphabet that the reason they are resisting regulation is because it will disadvantage smaller companies. Yeah, right!

## UNIVERSITIES CAUGHT UP IN THE GLOBALISATION DEBATE

*Universities find that their global ambitions may also run into challenges*

Until now, few have considered universities to be in the front line of the globalization debate. Two recent incidents have changed that.

The Financial Times [reported](#) (£) that Cornell university has suspended two academic programmes and a research collaboration with China's Renmin University after several students reported being punished for speaking out for workers' rights and supporting unionization. Cornell considered this an infringement of academic freedom and has suspended its programmes.

Meantime, a report by the Australian Strategic Policy Institute claims that, over the last five years, Chinese researchers affiliated with the People's Liberation Army and many of whom hid their affiliation, have been building a research collaboration network with universities in countries belonging to the Five Eyes intelligence grouping (US, UK, Canada, Australia, New Zealand) to get access to research and know-how that could have military applications.

Navigation technology, computer science and artificial intelligence were the dominant areas of research exchange.

It remains to be seen what impact this report will have on future restrictions in research collaborations with China.

### About Radix

Radix is a cross-party think tank for the radical centre of contemporary politics. Its aim is to re-imagine the way government, institutions and societies function based on open-source, participative citizenship. To kick-start the thinking that is needed for politics to embrace technology, innovation, social and cultural change.

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