Opinion piece

Soft rules and the informational role of the WTO

By Giovanni Maggi

Howard H. Leach Professor of Economics and International Affairs and Director of Undergraduate Studies, Yale University

The WTO rules-based system is under a considerable amount of stress. We may be at a juncture where the WTO needs to step back and shift emphasis, at least in some domains, toward more "soft" rules that key players can find politically easier to comply with.

The dispute settlement system is under stress due to the disabling of the Appellate Body (AB). But it is important to remember that, in the General Agreement on Tariffs and Trade (GATT) years, the Dispute Settlement Body (DSB) was remarkably effective even without an AB, and this in spite of the fact that the adoption of the ruling could be blocked by the losing country.

One way to understand this is that an important role of the DSB is to disseminate information across the trading community, thereby facilitating multilateral normative pressures. As argued in Maggi (1999), multilateral enforcement does not have to take the form of all-out multilateral trade sanctions in response to violations of the agreement. A softer form of multilateral enforcement, for example, is one in which the trading community extends less "goodwill" to the country found in violation of the agreement, and is perhaps less inclined to sign new agreements with that country.

Maggi (1999) also argues that the benefits from multilateral enforcement, relative to a system based solely on bilateral retaliation threats, are greatest when there are strong imbalances of power between trading partners. This line of reasoning makes me hopeful that the WTO Dispute Settlement System may still play a positive role even if there is a return to the GATT system.

An informational role of the WTO that is sometimes understated is to enhance transparency and information exchange between governments. For example,

(i) The WTO trade monitoring exercise and Trade Policy Review Mechanism enhance the monitoring of government policies, thus complementing the informational role of the Dispute Settlement System discussed above. As discussed in WTO (2023c), there is scope for strengthening these mechanisms.

(ii) The WTO fosters the sharing of technical and evidence-based information through specialized committees. If an expert committee persuades a government that non-trade concerns (such as mitigating labour market disruptions, addressing environmental externalities or protecting national security) can be addressed effectively with less trade-restrictive measures than border measures, this can contribute significantly to global efficiency. This committee-based approach has already been embraced by the WTO in the area of specific trade concerns for behind-the-border measures. The same approach should be broadened to a wide range of non-trade concerns.

(iii) Bargaining theory suggests that better mutual information about each other's objectives and constraints reduces the likelihood of bargaining failures (Ausubel, Cramton, and Deneckere, 2002). Intuitively, governments aware of each other's domestic political constraints are more likely to find a compromise. This suggests that even the seemingly modest institutional function of fostering "mutual understanding" between governments may be valuable.

The WTO may also have a role to play in informing the global community of citizens about the dangers of a collapse of the rules-based multilateral trading system. Increasing public awareness of what the world would look like if the WTO ceased to exist might help to counter the political pressures that push in the direction of protectionism.

In conclusion, I do not mean to suggest that the WTO should give up on enforcing its fundamental rules. However, at a time when flexibility seems more critical to the survival of the WTO than the enforcement of hard rules, it might be a good idea to shift the focus toward the softer side of the WTO, at least for a while.

Disclaimer

Opinion pieces are the sole responsibility of their authors. They do not necessarily reflect the opinions or views of WTO members or the WTO Secretariat.