



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

# **REFORM OF THE WORLD TRADE ORGANIZATION: SOME CANADIAN VIEWS AND PRIORITIES**

**Report of the Standing Committee on International Trade**

**Hon. Judy A. Sgro, Chair**

**JUNE 2021**  
**43<sup>rd</sup> PARLIAMENT, 2<sup>nd</sup> SESSION**

---

Published under the authority of the Speaker of the House of Commons

**SPEAKER'S PERMISSION**

The proceedings of the House of Commons and its Committees are hereby made available to provide greater public access. The parliamentary privilege of the House of Commons to control the publication and broadcast of the proceedings of the House of Commons and its Committees is nonetheless reserved. All copyrights therein are also reserved.

Reproduction of the proceedings of the House of Commons and its Committees, in whole or in part and in any medium, is hereby permitted provided that the reproduction is accurate and is not presented as official. This permission does not extend to reproduction, distribution or use for commercial purpose of financial gain. Reproduction or use outside this permission or without authorization may be treated as copyright infringement in accordance with the *Copyright Act*. Authorization may be obtained on written application to the Office of the Speaker of the House of Commons.

Reproduction in accordance with this permission does not constitute publication under the authority of the House of Commons. The absolute privilege that applies to the proceedings of the House of Commons does not extend to these permitted reproductions. Where a reproduction includes briefs to a Standing Committee of the House of Commons, authorization for reproduction may be required from the authors in accordance with the *Copyright Act*.

Nothing in this permission abrogates or derogates from the privileges, powers, immunities and rights of the House of Commons and its Committees. For greater certainty, this permission does not affect the prohibition against impeaching or questioning the proceedings of the House of Commons in courts or otherwise. The House of Commons retains the right and privilege to find users in contempt of Parliament if a reproduction or use is not in accordance with this permission.

Also available on the House of Commons website  
at the following address: [www.ourcommons.ca](http://www.ourcommons.ca)

**REFORM OF THE WORLD TRADE  
ORGANIZATION: SOME CANADIAN VIEWS AND  
PRIORITIES**

**Report of the Standing Committee on  
International Trade**

**Hon. Judy A. Sgro  
Chair**

**JUNE 2021**

**43<sup>rd</sup> PARLIAMENT, 2<sup>nd</sup> SESSION**

## **NOTICE TO READER**

### **Reports from committees presented to the House of Commons**

Presenting a report to the House is the way a committee makes public its findings and recommendations on a particular topic. Substantive reports on a subject-matter study usually contain a synopsis of the testimony heard, the recommendations made by the committee, as well as the reasons for those recommendations.

# **STANDING COMMITTEE ON INTERNATIONAL TRADE**

## **CHAIR**

Hon. Judy A. Sgro

## **VICE-CHAIRS**

Tracy Gray

Simon-Pierre Savard-Tremblay

## **MEMBERS**

Ziad Aboultaif

Chandra Arya

Rachel Bendayan

Daniel Blaikie

Sukh Dhaliwal

Randy Hoback

Ben Lobb

Randeep Sarai

Terry Sheehan

## **OTHER MEMBERS OF PARLIAMENT WHO PARTICIPATED**

Alistair MacGregor

Lindsay Mathysen

## **CLERK OF THE COMMITTEE**

Christine Lafrance

## **LIBRARY OF PARLIAMENT**

### **Parliamentary Information, Education and Research Services**

Bashar Abu Taleb, Analyst

Offah Obale, Analyst



# **STANDING COMMITTEE ON INTERNATIONAL TRADE**

**43<sup>rd</sup> Parliament—1<sup>st</sup> Session**

## **CHAIR**

Hon. Judy A. Sgro

## **VICE-CHAIRS**

Randy Hoback

Simon-Pierre Savard-Tremblay

## **MEMBERS**

Chandra Arya

Rachel Bendayan

Daniel Blaikie

Colin Carrie

Sukh Dhaliwal

Michael Kram

Chris Lewis

Randeep Sarai

Terry Sheehan

## **OTHER MEMBER OF PARLIAMENT WHO PARTICIPATED**

Vance Badaway

## **CLERK OF THE COMMITTEE**

Christine Lafrance

## **LIBRARY OF PARLIAMENT**

### **Parliamentary Information, Education and Research Services**

Bashar Abu Taleb, Analyst

Offah Obale, Analyst



# **THE STANDING COMMITTEE ON INTERNATIONAL TRADE**

has the honour to present its

## **NINTH REPORT**

Pursuant to its mandate under Standing Order 108(2), the committee has studied the reform of the World Trade Organization and has agreed to report the following:



# TABLE OF CONTENTS

---

LIST OF RECOMMENDATIONS .....	1
REFORM OF THE WORLD TRADE ORGANIZATION: SOME CANADIAN VIEWS AND PRIORITIES .....	3
Introduction.....	3
The Negotiating Function.....	4
A. E-commerce and Digital Trade .....	4
B. Intellectual Property.....	5
C. Agricultural and Fisheries Subsidies.....	5
D. Non-tariff Trade Barriers.....	7
E. Trade and the Environment.....	8
F. Current and Future Multilateral and Plurilateral Negotiations .....	8
The Monitoring Function.....	9
A. Government Notifications of Trade Measures.....	9
B. Trade-restrictive Measures and the Pandemic .....	10
The Dispute-Settlement Function .....	11
A. The Current Status of the Appellate Body .....	11
B. Some Impacts of a Non-functioning Appellate Body on Canadian Businesses.....	12
C. Interim Dispute-Settlement Arrangements .....	13
The Capacity-Building Function .....	14
A. The Development Status of Some Members.....	14
B. Special and Differential Treatment.....	14
The Committee’s Conclusions and Recommendations .....	15
APPENDIX A LIST OF WITNESSES .....	19
APPENDIX B LIST OF WITNESSES .....	21

APPENDIX C LIST OF BRIEFS.....	23
REQUEST FOR GOVERNMENT RESPONSE .....	25
SUPPLEMENTARY OPINION OF THE CONSERVATIVE PARTY OF CANADA .....	27
SUPPLEMENTARY OPINION OF THE NEW DEMOCRATIC PARTY OF CANADA .....	29

# LIST OF RECOMMENDATIONS

---

*As a result of their deliberations committees may make recommendations which they include in their reports for the consideration of the House of Commons or the Government. Recommendations related to this study are listed below.*

## **Recommendation 1**

**That the Government of Canada reaffirm the right of each World Trade Organization member to adopt trade policies for the best interests of its citizens..... 16**

## **Recommendation 2**

**That the Government of Canada emphasize at the World Trade Organization the importance of public services provided by national, sub-national and municipal governments, as well as their non-market nature, in the public interest. .... 16**

## **Recommendation 3**

**That the Government of Canada emphasize at the World Trade Organization that the cultural exception is non-negotiable for Canada. .... 16**

## **Recommendation 4**

**That the Government of Canada uphold the right of World Trade Organization (WTO) members to support their agricultural sector, particularly by implementing special measures to protect their farmers in accordance with WTO rules. .... 16**

## **Recommendation 5**

**That the Government of Canada appeal to the World Trade Organization to review intellectual property protection as it relates to COVID-19 vaccines. The purpose of such a review should be improving developing countries' access to medicines, where necessary. .... 16**

**Recommendation 6**

**That the Government of Canada ensure that the implementation of World Trade Organization rules does not conflict with international environmental agreements. .... 17**



# REFORM OF THE WORLD TRADE ORGANIZATION: SOME CANADIAN VIEWS AND PRIORITIES

---

## INTRODUCTION

The World Trade Organization (WTO), which began operations on 1 January 1995 as the successor to the 1948 General Agreement on Tariffs and Trade, helps to establish principles and rules for non-discriminatory, transparent and predictable international trade between and among its [164 members](#). The WTO's core functions are stipulated in the [Marrakesh Agreement Establishing the World Trade Organization](#) (the Marrakesh Agreement), and these functions include: serving as a negotiating forum for trade agreements; monitoring members' trade measures; resolving trade disputes between and among WTO members; and building the trade-related capacity of developing countries.

With the WTO experiencing challenges in performing at least some of its core functions, Canada—a founding member of the WTO—is among those advocating reform. In October 2018, Canada and a group of like-minded WTO members created the [Ottawa Ministerial on WTO Reform Group](#) (the Ottawa Group).<sup>1</sup> Its first communiqué, which was released on 25 October 2018, [indicated](#) that the “current situation at the WTO is no longer sustainable.”

On 9 March 2020, the House of Commons Standing Committee on International Trade (the Committee) adopted a [motion](#) to undertake a study on “ongoing and future efforts to reform the World Trade Organization, in collaboration with like-minded trading partners and countries, including the Ottawa Group, in the face of challenges to the existing rules-based international order.” Following the 18 August 2020 prorogation of Parliament, on 23 October 2020, the Committee adopted a [motion](#) to undertake a study on “World Trade Organization reform.” The testimony and briefs received by the Committee pursuant to both motions are summarized in this report.

During three meetings on this study, the Committee's witnesses comprised government officials and representatives of: four general or sector-specific business trade

---

1 Members of the Ottawa Ministerial on WTO Reform Group are Australia, Brazil, Canada, Chile, the European Union, Japan, Kenya, Mexico, New Zealand, Norway, Singapore, South Korea and Switzerland.



associations; two civil society organizations; and one think tank. The Committee also received eight written briefs.<sup>2</sup>

This report summarizes the comments made in the testimony and briefs about four of the WTO's core functions: negotiate agreements; monitor trade measures; resolve disputes; and build the capacity of some members. It also provides the Committee's conclusions and recommendations concerning WTO reform.

## THE NEGOTIATING FUNCTION

The Committee's witnesses identified some challenges that the WTO is facing in relation to its negotiating function. They focused on: e-commerce and digital trade; intellectual property; agricultural and fisheries subsidies; non-tariff trade barriers; trade and the environment; and current and future multilateral and plurilateral negotiations.

### A. E-commerce and Digital Trade

In indicating that Canadian businesses have identified e-commerce as “very important,” Global Affairs Canada [officials](#) underscored that “Canada is taking a very active role to try to bring [Canadian businesses’] issues to the table.” The [officials](#) added that the Government of Canada’s efforts in this area will “level [the] playing field” for the country’s businesses—especially those that are small or medium in size—“that cannot bear the type of administrative burdens and costs associated with some of the complex rules that are applicable to digital trade” and other barriers in certain foreign jurisdictions. They particularly mentioned limitations on cross-border data flows, data localization requirements and rules regarding the disclosure of a source code.

The [Business Council of Canada](#) noted that the WTO’s negotiations on e-commerce—known as the joint statement initiative on e-commerce<sup>3</sup>—“can liberalize and create a level playing field for Canadian firms in fast-growing areas of our economy, including digital trade and e-commerce.” In a brief submitted to the Committee, [Mastercard Canada](#) explained that a WTO agreement on e-commerce would provide a transparent, non-discriminatory and predictable regulatory regime for digital trade.

The [Centre for International Governance Innovation](#) said that digital trade goes beyond e-commerce to include “cross-border data flows, with implications for data and [artificial intelligence] governance, competition, privacy, and intellectual property.” In its view,

---

2 The Centre for International Governance Innovation appeared as a witness and submitted a brief.

3 See World Trade Organization (WTO), [Joint Statement Initiative on E-Commerce](#), December 2020.

technical regulations in these areas should be developed through processes outside the WTO and then considered during WTO negotiations.

## B. Intellectual Property

With a focus on intellectual property rights, the [Centre for International Governance Innovation](#) observed that the advent of artificial intelligence and the “explosion of cross-border data flows” have changed “the economics of innovation and the nature of trade,” thus requiring reconsideration of the WTO’s *Agreement on Trade-Related Aspects of Intellectual Property Rights* (TRIPS Agreement).

Regarding a proposal by India and South Africa<sup>4</sup> for a waiver from the application of certain provisions of the TRIPS Agreement, the [Centre for International Governance Innovation](#) suggested that “there is a clear case that [pharmaceutical firms’] patent rights could be waived or be considered to be waived” in response to the COVID-19 pandemic. In a brief submitted to the Committee, [Doctors Without Borders](#) urged the Government of Canada to support the proposed waiver, which it believed would allow “countries to choose to neither grant nor enforce patents ... related to COVID-19 drugs, vaccines, diagnostics, and other health technologies for the duration of the pandemic.”

Global Affairs Canada [officials](#) pointed out that the Government of Canada has not rejected the proposed TRIPS waiver.<sup>5</sup> According to them, the Government is committed to identifying consensus-based solutions by supporting the WTO director general’s “third way effort,” which involves discussions with pharmaceutical firms aimed at resolving challenges relating to the production and distribution of COVID-19 vaccine doses.

The [Réseau québécois sur l'intégration continentale](#) said that a “reformed WTO must completely overhaul intellectual property protection,” and suggested that the pandemic “makes it more necessary than ever to remove WTO intellectual property constraints.”

## C. Agricultural and Fisheries Subsidies

Concerning agricultural subsidies, Global Affairs Canada [officials](#) remarked that such subsidies “unduly distort trade and are a significant problem for Canadian agricultural

---

4 Since India and South Africa submitted the proposal, the following countries and groups of countries have become co-sponsors: Bolivia, Egypt, Eswatini, Kenya, Mongolia, Mozambique, Pakistan, Venezuela, Zimbabwe, the African Group and the Least Developed Countries Group at the WTO.

5 As a member-driven organization, the WTO’s decisions are taken by its members and are reached by consensus.



producers.” The [officials](#) identified China and India as being among the “top tier” countries providing substantial subsidies to their agricultural sectors. Furthermore, they commented that a “key interest for Canada and a number of other WTO members is tackling those trade-distorting agricultural subsidies.”

In a brief submitted to the Committee, the [Canadian Canola Growers Association](#) stated that, even though countries recognize the need for multilateral disciplines in relation to trade-distorting agricultural subsidies, WTO negotiations to achieve that goal have been stalled. It referenced Cairns Group<sup>6</sup> estimates suggesting that “amber box”<sup>7</sup> agricultural subsidies will reach US\$2 trillion worldwide by 2030, and underlined that “reforms are particularly important for Canada which cannot afford ... the support provided by larger economies but requires a competitive field for its agriculture producers.”

As well, in a joint brief submitted to the Committee on their own behalf, the University of British Columbia’s [Kristen Hopewell and Matias Margulis](#) explained that—historically—the United States and European Union member states led the world in providing subsidies to their agricultural producers. However, according to them, China’s increasing wealth has resulted in that country becoming the world’s largest provider of such subsidies. They pointed out that China provided its agricultural producers with approximately US\$212 billion in market price support and direct subsidies in 2016, an amount that exceeded the European Union’s US\$100 billion, the United States’ US\$33 billion and Canada’s US\$5 billion.

The [Grain Growers of Canada](#) affirmed that subsidies provided by countries with a large agricultural sector affect international prices. It stressed the need for “an equal playing field for farmers internationally,” and suggested that the WTO plays an “important role” in ensuring this outcome.

Regarding fisheries subsidies, [Kristen Hopewell and Matias Margulis](#) mentioned that the United Nations Sustainable Development Goals “identified the need for a WTO agreement to eliminate harmful fisheries subsidies as an urgent international priority.” They also indicated that China is the world’s largest provider of fisheries subsidies, and noted that the country’s industrial fishing fleet accounts for “42% of global fishing activity—outstripping the next 10 biggest countries combined.”

---

6 The Cairns Group is a coalition of the following 19 WTO members that export agricultural goods: Argentina, Australia, Brazil, Canada, Chile, Colombia, Costa Rica, Guatemala, Indonesia, Malaysia, New Zealand, Pakistan, Paraguay, Peru, the Philippines, South Africa, Thailand, Uruguay and Viet Nam.

7 “Amber box” subsidies are provided, for example, when a government buys agricultural products at a guaranteed price, thereby providing producers with “market price support.”

## D. Non-tariff Trade Barriers

In commenting on non-tariff trade barriers, Global Affairs Canada [officials](#) affirmed that “burdensome customs and trade facilitation procedures, onerous paperwork requirements, [and] unclear information regarding regulatory requirements in different markets” are issues of concern for Canadian small and medium-sized businesses. They added that the Government of Canada tries to be conscious of these businesses’ needs when negotiating international trade rules.

The [Grain Growers of Canada](#) said that Canada’s grain sector has faced “a laundry list” of non-tariff trade barriers in recent years, leading to restricted access to foreign markets. It expressed its hope that WTO reform efforts will include review of, and improvements to, the WTO’s *Agreement on the Application of Sanitary and Phytosanitary Measures* and its *Agreement on Technical Barriers to Trade*, as well as adherence to international standards. As well, the Grain Growers of Canada stressed that these agreements require WTO members to introduce measures that are “based on science ... and [that do] not constitute an obstacle to trade.”

Similarly, in a brief submitted to the Committee, the [Canadian Agri-Food Trade Alliance](#) advocated for enhanced WTO rules to ensure science-based regulatory requirements, as well as predictable conditions for Canada’s agricultural and food exporters. As well, according to the [Canadian Canola Growers Association](#), “a renewed commitment to the WTO’s *Agreement on the Application of Sanitary and Phytosanitary Measures* at the [12<sup>th</sup> Ministerial Conference] would reiterate the importance of science-based rules and predictability to trade facilitation.”

[Canadian Manufacturers & Exporters](#) asserted that Canadian businesses encounter problems when exporting to foreign markets, including because of unfair competition from state-owned enterprises, dumping, and currency manipulation. To resolve these issues, it urged the Government of Canada to “seek consensus with like-minded countries and prioritize which challenges to address first, and then update those [WTO] rules accordingly.”

Finally, concerning specific countries, the [Grain Growers of Canada](#) stated that Italy’s mandatory country-of-origin labelling requirement “has a direct and immediate impact on Canadian grain farmers.” It urged the Government of Canada to initiate a WTO complaint regarding that requirement. The [Canadian Canola Growers Association](#) highlighted that Canadian “canola farmers currently face politically motivated restrictions in accessing the Chinese market, as well as various barriers to the development of and access to crop protection tools and new seed varieties.”



## E. Trade and the Environment

With a focus on the environment, in a joint brief submitted to the Committee on their own behalf, [Geneviève Parent and Jérôme Dupras](#)—from the Université Laval à Québec and the Université du Québec en Outaouais, respectively—drew particular attention to the WTO’s *Agreement on Agriculture*, and said that WTO reform must consider new realities, including climate change. They also suggested that, under expanded *Agreement on Agriculture* provisions, WTO members should be able to promote and encourage food security, as well as sustainable production and processing methods that both protect the environment and support climate change mitigation and adaptation efforts. Moreover, in their view, WTO rules about public support for environmental protection should be “broadened” so that agricultural producers can be “directly and appropriately” remunerated for their operations’ “environmental services.”

The [Trade Justice Network](#) highlighted that “it is paramount [that] the WTO and trade rules protect climate policy,” and proposed that WTO trade rules that “conflict with climate action should be eliminated to allow communities and governments to advance bold climate protections ....”

## F. Current and Future Multilateral and Plurilateral Negotiations

In speaking about the status of various WTO negotiations, Global Affairs Canada [officials](#) explained that, even though the current comprehensive multilateral round of negotiations launched in 2001—the Doha Round—has reached a stalemate, negotiations are ongoing on several issues. They said that negotiations concerning fisheries subsidies “have reached a critical stage,” with WTO members striving to conclude those negotiations by the WTO’s 12<sup>th</sup> Ministerial Conference, which is scheduled for 30 November–3 December 2021. They pointed out that the Government of Canada has actively contributed to those negotiations, including through a proposal to “discipline subsidies contributing to overfishing and overcapacity.” As well, in their view, the negotiations on domestic regulations for services “are also getting quite close to conclusion,” which provides another opportunity to modernize global trade rules.

Regarding the needs of Canadian small and medium-sized businesses, Global Affairs Canada [officials](#) spoke about the Government of Canada’s participation in an initiative that led to the creation of a WTO working group on micro, small and medium-size businesses. According to them, this working group will take a “microscopic look at the particular kinds of challenges that [such businesses] face in international markets and [will] try to ensure [the development of] WTO rules that are specifically designed for small and medium-sized enterprises.”

Agriculture and Agri-Food Canada [officials](#) indicated that the Government of Canada co-sponsored a statement by the Cairns Group that sets out a framework to limit and reduce countries' trade-distorting agricultural subsidies in the context of WTO negotiations.

Regarding plurilateral negotiations, Global Affairs Canada [officials](#) underlined that challenges to the multilateral approach have led some WTO members to pursue plurilateral agreements. In their view, willing members have launched plurilateral initiatives—also known as joint statement initiatives—in such areas as e-commerce, investment facilitation for development, domestic regulation of services, and micro, small and medium-sized enterprises.

The [Centre for International Governance Innovation](#) asserted that multilateralism is best, but indicated that a plurilateral approach can help to build consensus among like-minded countries. Similarly, [Mastercard Canada](#) stated that a reformed WTO “should promote and support more plurilateral type agreements,” such as regarding e-commerce.

## THE MONITORING FUNCTION

The Committee's witnesses identified certain areas of concern relating to the WTO's monitoring function. They specifically commented on: government notifications to the WTO concerning their trade measures; and countries' trade-restrictive measures introduced in response to the COVID-19 pandemic.

### A. Government Notifications of Trade Measures

While acknowledging Canadian businesses' concerns about the low level of compliance with government notification requirements and the lack of information regarding WTO members' trade measures, Global Affairs Canada [officials](#) said that resolving the WTO's monitoring-related challenges “were front and centre” when the Government of Canada and some like-minded WTO members established the Ottawa Group. The [officials](#) stated that, as part of WTO reform proposals, the Ottawa Group has identified methods for more timely reporting and notification to the WTO of governments' trade measures.

The [Centre for International Governance Innovation](#) said that effective monitoring of WTO members' trade measures depends on government notifications about those measures and information sharing. It stressed that these government notifications continue to be the most important source of information, and suggested that many governments face capacity challenges in complying with notification requirements.



According to the [Centre for International Governance Innovation](#), government compliance with notification requirements could be enhanced by ensuring that “information requirements are fit for purpose, and by providing support for building governments’ capacity to gather and share information.”

In a brief submitted to the Committee on his own behalf, Queen’s University’s [Robert Wolfe](#) underscored that government compliance with the notification requirements in the WTO’s various agreements remains very uneven. He proposed that the WTO should review these requirements “to identify the gaps” in the compliance processes.

According to the [Canadian Canola Growers Association](#), efforts to improve information sharing would increase the effectiveness of existing rules and the WTO’s monitoring function. It pointed out that, because large oilseed producers—the United States, Canada, China and Argentina—are lagging behind in notifying the WTO about export support measures provided to their canola producers, it is difficult to assess members’ compliance with the WTO’s rules, and to adjust practices either to respond to—or to mitigate the impact of—a new export measure.

## **B. Trade-restrictive Measures and the Pandemic**

In making general comments about the WTO’s monitoring of its members’ trade measures Global Affairs Canada [officials](#) maintained that the multilateral trading system is facing an increasingly challenging environment, including because of growing protectionism since the beginning of the pandemic. The [officials](#) said that, in June 2020, members of the Ottawa Group issued a joint statement—“Focusing Action on Covid-19”—in which they committed to a six-point work plan with concrete action items. Furthermore, they highlighted a November 2020 Ottawa Group ministerial meeting that was followed by the release of a communication on trade and health that called on WTO members “to avoid disruptions in the supply chains of essential goods” and that proposed “the launch of a multilateral WTO initiative on trade and health.” According to them, the Ottawa Group members presented this communication to the WTO’s General Council on 16 December 2020.

Regarding the European Union’s restrictions on exports of COVID-19 vaccine doses, Global Affairs Canada [officials](#) indicated that the Ottawa Group’s approach is “more of a long-term effort to ... move WTO members in such a direction as to get rid of issues that are potential barriers, like customs procedures, limit the use of export restrictions, ... eliminate tariffs and increase transparency.” In their view, the objective is to strengthen

global supply chains and to ensure the “free flow of essential medicines and medical supplies.”

The [Grain Growers of Canada](#) expressed concerns about rising nationalism and protectionism, both of which—in its view—have been exacerbated by government measures implemented in response to the pandemic. According to the [Grain Growers of Canada](#), “the [Government of Canada] must hold a firm line against this growing wave of protectionism” because it is “more critical now than ever to remove existing barriers, and urgently fix and modernize the World Trade Organization.” As a result, it proposed that pandemic-related measures should be “targeted and transparent, avoid unnecessary barriers to trade, and ... be withdrawn as quickly as possible to avoid any adverse effects on trade.”

## THE DISPUTE-SETTLEMENT FUNCTION

Witnesses spoke to the Committee about several challenges that the WTO is experiencing in relation to its dispute-settlement function. In particular, they discussed: the current status of the WTO’s Appellate Body; some impacts of a non-functioning Appellate Body on Canadian businesses; and interim dispute-settlement arrangements.

### A. The Current Status of the Appellate Body

In describing the current status of the Appellate Body, Global Affairs Canada [officials](#) highlighted that—since December 2019—the Appellate Body has not been able to hear appeals of dispute-settlement panel decisions because it has not had quorum. In the [officials’](#) view, as a result, a WTO member “can prevent the resolution of a dispute by effectively appealing [a panel’s decision] into the void,” thereby undermining the “legal rights of WTO members.” They asserted that the “loss of recourse to binding dispute settlement has serious implications” for Canada, which they described as “an active user” of the WTO’s dispute-settlement system, having been a “party to a total of 63 disputes since 1995.” The officials also mentioned that Canada has “played a leading role in discussions on how to resolve the impasse in appointments” to the Appellate Body, which they viewed as “the most pressing issue facing the WTO.”

Regarding U.S. actions in relation to the Appellate Body, Global Affairs Canada [officials](#) characterized that country’s involvement as “absolutely essential,” and maintained that Canada has “looked for every opportunity to engage the United States” about reform of the Appellate Body and WTO reform issues generally. They observed that, “unfortunately, [U.S.] engagement thus far has been quite limited.” The [Business Council](#)



[of Canada](#) described Canada’s need to work with the United States to “restore the functionality” of the Appellate Body as “really critical,” and indicated that “this is one of a list of priorities [that Canada has] with the new administration.” As well, the [Business Council of Canada](#) stated that it is “critical that [Canada brings] the U.S. back to the table,” and suggested that the Ottawa Group—of which Canada is a member—is “well positioned to do that.”

The [B.C. Lumber Trade Council](#) “strongly encourage[d]” the Government of Canada to “do what it can to resolve the current ... impasse” concerning the functioning of the Appellate Body. As well, the [B.C. Lumber Trade Council](#) emphasized that it is “critically important” for Canada that the WTO continues to have both a “strong ... dispute settlement mechanism” and a “well-functioning neutral body to adjudicate” disputes that the country has with its trading partners. The [Centre for International Governance Innovation](#) remarked that the Appellate Body’s non-functioning status “threatens the whole [WTO dispute-settlement] system,” while [Mastercard Canada](#) proposed that the WTO should both improve the transparency and timeliness of the Appellate Body’s “decision making process,” and establish “clear principles to prohibit overreach” by its members.

## **B. Some Impacts of a Non-functioning Appellate Body on Canadian Businesses**

With a focus on the impact of a non-functioning Appellate Body on Canadian businesses, Global Affairs Canada [officials](#) mentioned that those businesses “are deeply concerned that Canada’s rights at the WTO are undermined ..., in particular vis-à-vis the United States.” The [officials](#) indicated that Canada is currently a party to between five and eight cases before the Appellate Body, including in relation to wine with Australia, aircraft with Brazil, and softwood lumber with the United States.

The [Grain Growers of Canada](#) asserted that the WTO’s dispute-settlement mechanism is a “major concern” for its members, and emphasized the need to resolve what it views as the Appellate Body’s “current paralysis.” [Canadian Manufacturers & Exporters](#) felt that “smaller markets” such as Canada, which “might not have the weight to throw around that other countries have,” are disadvantaged by a mechanism that is “slow” in resolving disputes. In underscoring the need for Appellate Body reform that ensures timely resolution of disputes, the [B.C. Lumber Trade Council](#) mentioned its preference for reforms that “will ensure that Canadian companies can get a fair hearing from a neutral body that is fully functioning and able to hear cases through to appeal and deliver timely resolution to disputes when they arise.”

Regarding softwood lumber, Global Affairs Canada [officials](#) expressed their concern that both WTO cases involving Canada and the United States have been appealed. They explained that, because the Appellate Body is currently not functioning, “those cases have essentially been appealed into the void,” and there is “no immediate resolution” to them. In the opinion of the [B.C. Lumber Trade Council](#), it is important to have the Appellate Body’s decisions on these cases “finalized.” The [B.C. Lumber Trade Council](#) believed that a dispute before the Appellate Body frequently “drags on for several years,” leading to “added cost and uncertainty” for Canada’s softwood lumber sector.

### C. Interim Dispute-Settlement Arrangements

In noting alternative dispute-settlement arrangements, Global Affairs Canada [officials](#) suggested that, because of the possible impacts on Canada’s current and future disputes of the Appellate Body’s current inability to hear and decide appeals, it has been “very important” for the country to establish one or more interim arrangements to “ensure [that Canada has] some form of appeal mechanism.” In that regard, the [officials](#) underscored that, in July 2019, Canada and the European Union agreed to a bilateral interim appeal arbitration arrangement to resolve appeals “until such time as the appellate body impasse is fixed.” They also mentioned that, in January 2020, Canada and 16 other WTO members “built on the success” of this bilateral interim arrangement by “agreeing to work towards a similar interim arrangement that would apply between participating members until the appellate body is again functional.”

As well, Global Affairs Canada [officials](#) stated that Canada and some other WTO members have “explored” the Multi-Party Interim Appeal Arrangement as an alternative to “simply appealing into the void.” They believed that interim dispute-settlement arrangements help to “safeguard” Canada’s “rights to binding two-stage dispute settlement with willing WTO members until the appellate body is functional again.”

The [Centre for International Governance Innovation](#) identified the Multi-Party Interim Appeal Arbitration Arrangement, “no-appeal agreements” and the use of dispute-settlement mechanisms in other trade agreements to which WTO members are parties as interim dispute-settlement options, while the [Canadian Canola Growers Association](#) said that the Multi-Party Interim Appeal Arrangement “provides some certainty and stability, and a platform for Canada to move discussions towards a permanent solution” to the Appellate Body’s current non-functioning status. The [Business Council of Canada](#) characterized the Multi-Party Interim Appeal Arrangement as a “critical stopgap measure to ensure that the WTO dispute settlement mechanism continues to function in several leading economies.”



## THE CAPACITY-BUILDING FUNCTION

In their appearance before the Committee, witnesses examined various topics relating to the WTO's capacity-building function. They concentrated on: the development status of some members; and special and differential treatment, including in relation to China.

### A. The Development Status of Some Members

In discussing the challenges currently affecting the WTO's daily functioning, Global Affairs Canada [officials](#) highlighted a "lack of consensus on how to treat developing countries." The [officials](#) asserted that classifying a WTO member as a developed country is "contentious." In their opinion, recent debates have explored recognition of the "significant differences between or among developing countries." They indicated that the challenge is how to "differentiate among developing countries in the kinds of obligations we would expect them to take on."

As well, Global Affairs Canada [officials](#) underlined that Canada "takes a very pragmatic view on development at the WTO." The [officials](#) explained that countries to be considered "developing" should be identified through the "various negotiations that are under way at the WTO," with consideration given to the "specific types of flexibilities that may be needed for certain developing countries in a unique context." The [Centre for International Governance Innovation](#) stressed the importance of "finding ways to provide flexibility in the rules for developing countries that is commensurate with their level of development."

### B. Special and Differential Treatment

With a focus on special and differential treatment for some WTO members, [Kristen Hopewell and Matias Margulis](#) characterized such treatment as "among the most pressing issues for WTO reform." They thought that, "amid the rise of major emerging economies," the challenge is to ensure that special and differential treatment is "designed and operationalized" in a way that does not "undermine global development objectives." The [Centre for International Governance Innovation](#) drew attention to the need to "find solution-oriented approaches" to the "controversial issue of developing country status" and eligibility for special and differential treatment. As well, the [Centre for International Governance Innovation](#) emphasized that "not all countries need or should benefit from the same level of flexibility" concerning special and differential treatment.

Regarding the development status of China for purposes of the WTO and the country's eligibility for special and differential treatment, [Canadian Manufacturers & Exporters](#) suggested that the WTO's "handling of the China question" will "define its future and the future of the global trading order." [Kristen Hopewell and Matias Margulis](#) remarked that "allowing China to access [special and differential treatment] is increasingly problematic due to the harmful effects of its trade policies" on other developing countries that are WTO members.

## THE COMMITTEE'S CONCLUSIONS AND RECOMMENDATIONS

As a founding member of the WTO and a leading member of the Ottawa Group, Canada is at the forefront of international efforts to reform the WTO. The Committee's notes that the WTO is fundamental to a rules-based international trading system, and—in that context—it is critical that the WTO is able to undertake its core functions effectively and efficiently. In addition to those that were a focus for many witnesses, the WTO is also an important partner with other international organizations, which allows collaborative work in meeting challenges.

When countries pursue multilateral trade agreements, they generally look to the WTO as the forum through which negotiations occur. The Committee recognizes that the WTO needs to be able to facilitate such negotiations among its members. This ability is perhaps especially vital in order to recognize such emerging issues as e-commerce and the environment, as well as to address concerns about intellectual property protections and harmful subsidies. That said, plurilateral approaches—which involve only some WTO members and focus on particular sectors—should also be explored, as appropriate.

Some WTO members' non-tariff trade barriers—mandatory country-of-origin labelling requirements, as well as sanitary and phytosanitary measures that are not science-based—reduce export opportunities for Canadian businesses. The Committee observes that, unless the WTO addresses the existence of such barriers, countries are unlikely to limit the implementation of measures that restrict access to their markets.

Under the agreement that established the WTO, members have an obligation to meet government notification requirements, thereby allowing violations of the WTO's agreements to be identified and addressed in an effective and timely manner. The Committee maintains that fulfillment of these notification requirements enhances the transparency of the multilateral trading system.

The WTO's ability to resolve disputes between and among its members seems to be a particular challenge at this time. The Committee underscores that urgent actions are



needed concerning the WTO's dispute-resolution mechanism. "Appealing into the void" can create uncertainty for Canadian businesses and undermine Canada's rights. While interim appeal arrangements are helpful in the short term, they are not a substitute for a fully functioning Appellate Body.

Finally, trade-related capacities vary among the WTO's members. The Committee points out that, as the WTO fulfills its capacity-building function, it is important to identify the countries that are genuinely in need of support, and to provide assistance so that they are better able to implement—and to benefit from—WTO agreements. In that context, now may be an opportune time to consider issues relating to development status and special and differential treatment.

In light of the foregoing, the Committee recommends:

**Recommendation 1**

**That the Government of Canada reaffirm the right of each World Trade Organization member to adopt trade policies for the best interests of its citizens.**

**Recommendation 2**

**That the Government of Canada emphasize at the World Trade Organization the importance of public services provided by national, sub-national and municipal governments, as well as their non-market nature, in the public interest.**

**Recommendation 3**

**That the Government of Canada emphasize at the World Trade Organization that the cultural exception is non-negotiable for Canada.**

**Recommendation 4**

**That the Government of Canada uphold the right of World Trade Organization (WTO) members to support their agricultural sector, particularly by implementing special measures to protect their farmers in accordance with WTO rules.**

**Recommendation 5**

**That the Government of Canada appeal to the World Trade Organization to review intellectual property protection as it relates to COVID-19 vaccines. The purpose of such a review should be improving developing countries' access to medicines, where necessary.**

**Recommendation 6**

**That the Government of Canada ensure that the implementation of World Trade Organization rules does not conflict with international environmental agreements.**



## APPENDIX A LIST OF WITNESSES

---

The following table lists the witnesses who appeared before the committee at its meetings related to this report. Transcripts of all public meetings related to this report are available on the committee's [webpage for this study](#).

Organizations and Individuals	Date	Meeting
<b>BC Lumber Trade Council</b> Susan Yurkovich, President and Chief Executive Officer BC Council of Forest Industries	2021/03/08	18
<b>Grain Growers of Canada</b> Erin Gowriluk, Executive Director	2021/03/08	18
<b>Grain Growers of Canada</b> Andre Harpe, Chair	2021/03/08	18
<b>Réseau québécois sur l'intégration continentale</b> Claude Vaillancourt, Member	2021/03/08	18
<b>Trade Justice Network</b> Jesse Whattam, Coordinator	2021/03/08	18
<b>Business Council of Canada</b> Trevor Kennedy, Director Trade and International Policy	2021/03/12	19
<b>Canadian Manufacturers &amp; Exporters</b> Matthew Poirier, Director, Trade Policy	2021/03/12	19
<b>Centre for International Governance Innovation</b> Bob Fay, Managing Director Digital Economy	2021/03/12	19

Organizations and Individuals	Date	Meeting
<b>Department of Foreign Affairs, Trade and Development</b>	2021/03/12	19
Kendal Hembroff, Director General Trade Policy and Negotiations		
Steve Verheul, Chief Trade Negotiator and Assistant Deputy Minister Trade Policy and Negotiations		

## APPENDIX B LIST OF WITNESSES

---

The following table lists the witnesses who appeared before the committee at its meetings related to this report. Transcripts of all public meetings related to this report are available on the committee's [webpage for this study](#).

### 43<sup>rd</sup> Parliament, 1<sup>st</sup> Session

---

Organizations and Individuals	Date	Meeting
<b>Department of Agriculture and Agri-Food</b> Marie-Noëlle Desrochers, Acting Executive Director Market and Industry Services Branch	2020/03/11	15
<b>Department of Foreign Affairs, Trade and Development</b> Colin Bird, Director Trade Policy and Negotiations Division Kendal Hembroff, Director General Trade Policy and Negotiations John Layton, Executive Director Trade Remedies and North America Trade Division Don McDougall, Deputy Director Investment Trade Policy Division Darren Smith, Director Services Trade Division	2020/03/11	15



## APPENDIX C LIST OF BRIEFS

---

The following is an alphabetical list of organizations and individuals who submitted briefs to the committee related to this report. For more information, please consult the committee's [webpage for this study](#).

**Dupras, Jérôme**

**Parent, Geneviève**

**Wolfe, Robert**

**Canadian Agri-Food Trade Alliance**

**Canadian Canola Growers Association**

**Centre for International Governance Innovation**

**Doctors Without Borders**

**Mastercard Canada**

**University of British Columbia**



## REQUEST FOR GOVERNMENT RESPONSE

Pursuant to Standing Order 109, the committee requests that the government table a comprehensive response to this Report.

A copy of the relevant *Minutes of Proceedings* (Meeting No. [15](#)) from the 43<sup>rd</sup> Parliament, 1<sup>st</sup> Session and (Meetings Nos. [18](#), [19](#), [33](#), [37](#)) from the 43<sup>rd</sup> Parliament, 2<sup>nd</sup> Session is tabled.

Respectfully submitted,

Hon. Judy A. Sgro  
Chair



## **SUPPLEMENTARY OPINION OF THE CONSERVATIVE PARTY OF CANADA**

The Conservative Party of Canada is appreciative of the work of the analysts, clerk and staff of the Standing Committee on International Trade for their work in preparing this committee report on reform of the World Trade Organization (WTO). We are also appreciative of the witnesses who appeared to share their testimony and views during the meetings on this topic, and take questions from committee members.

Conservatives recognize the important role the WTO has when it comes to free and fair trade globally. The WTO also continues to serve an important role in dispute resolution as well as to reduce non-tariff trade barriers between countries. But as observed over the most recent years, the WTO can also be at times ineffective, resulting in some disputes facing a brick wall or stalling due to some challenges it has faced in performing its responsibilities. This has been seen in recent cases such as with the dispute settlement process via the WTO's Appellate Body, as well as in finding a common ground solution via the TRIPS council on intellectual property rights around COVID-19 vaccines.

The COVID-19 pandemic has also introduced new challenges in trade, as Canada and many other countries experienced firsthand when it came to the procurement of PPE, sanitizing equipment, ventilators, and COVID-19 vaccines. As Canada still does not have the ability to domestically produce COVID-19 vaccines, we are at the whim of the goodwill of the European Union and the United States in authorizing the export of the vaccines which we purchased from producers shipping them from there. We saw these risks emerge at a heightened level when the European Union announced export controls on COVID-19 vaccines in January of 2021. At that time, all of Canada's COVID-19 vaccines from Pfizer and Moderna were being shipped from facilities in the European Union. While the Government of Canada has highlighted the work it is doing through the Trade and Health Initiative via the Ottawa Group, it must also work with the group – of which the European Union is a member – to reduce barriers to the export of COVID-19 vaccines.

We also heard from government officials at Global Affairs Canada regarding the definition of 'developed' versus 'developing' countries at the WTO, and the contention around how a country is classified as one or the other. At present, with no formal definition each member country can determine themselves on whether they are a 'developed' or 'developing' country. As the WTO itself states, identifying as a 'developing' country brings certain rights – including various provisions in certain WTO agreements which a country defining itself as 'developed' would not have.<sup>1</sup> The Government of Canada working with its partners at the WTO and through the Ottawa Group on how to better differentiate and define developing countries could play an important role in fairer trade globally.

---

<sup>1</sup> [https://www.wto.org/english/tratop\\_e/devel\\_e/d1who\\_e.htm](https://www.wto.org/english/tratop_e/devel_e/d1who_e.htm)

In conclusion, Conservatives list the following recommendations, in addition to the ones listed in the main body of the report, for the Government to consider when it comes to reform of the World Trade Organization:

### **Recommendations**

1. That the Government of Canada expedite its work with the Ottawa Group to find solutions to ensure a fully functioning Appellate Body at the World Trade Organization.
2. That the Government of Canada work with its partners to establish a set definition of 'Developing' and 'Developed' country at the World Trade Organization.
3. That the Government of Canada, through the Trade and Health Initiative of the Ottawa Group, work to remove or reduce the duration of export controls which are placed by states on COVID-19 vaccines.

## **SUPPLEMENTARY OPINION OF THE NEW DEMOCRATIC PARTY OF CANADA**

It is important to note that circumstances are very different now than they were when the committee undertook this study. Since the beginning of this study, the world has been upturned by a global pandemic and a significant critic of the World Trade Organization, former President Donald Trump, lost the 2020 presidential election in the United States of America and has been replaced by President Joe Biden.

While the change in administration in the U.S. has caused some to speculate that the U.S. may return to a posture toward the WTO similar to its approach in the years preceding the Trump presidency, the pandemic has caused many to think more critically about the global trade regime that obtained prior to the pandemic. More specifically, it has highlighted the way that issues which are treated narrowly as trade issues at the WTO, sometimes simply called trade 'irritants', actually have far reaching social, economic and environmental consequences.

The role of WTO intellectual property rules in frustrating the production and dissemination of COVID-19 vaccines is a case in point. Many countries, lamentably not Canada, have joined the call to temporarily waive the WTO TRIPS provisions in recognition of the important public good that would be done by making it easier for potential vaccine manufacturers to access and deploy the intellectual property relevant to the production of COVID-19 vaccines. Unfortunately, these considerations of social justice and the public good fall outside the narrow scope of the WTO.

New Democrats recognize the moral deficiency in treating life and death questions about vaccines in a pandemic as if it were a discussion of simple trade in commodities in a context that, by design, fails to account for the very real human costs at stake in the outcome of the discussion. This perverse outcome is a symptom of the general problem that the WTO allows international trade policy to restrict the social, economic and environmental policy of various democratic governments across the globe.

The pandemic has shown that when push comes to shove, countries can be relied upon to look after their own first. It has shown the folly of giving up the capacity to produce certain essential goods domestically.

That should lead us into a conversation about how we can reform the WTO in a way that allows for democratic governments to implement good social and environmental policy without fear of sanction and implement industrial plans that allow for the development of domestic production of various essential goods and services.

If sincerely adopted by the government, some of the recommendations in this report could help to create a more just global trade regime. New Democrats are committed to putting that option on the ballot for Canadians across the country who share our concern about these issues.