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**20 YEARS OF WTO - EFFECTS OF ITS ACTIVITY  
AND PERSPECTIVES OF ITS FUNCTIONING IN THE CONTEXT  
OF PROLIFERATION OF REGIONAL AGREEMENTS  
IN THE WORLD TRADE**

**Introduction**

In 2015 the World Trade Organization (WTO) celebrated the 20th anniversary of its activity. This event has provoked the analysis and summary of effects of its activity within this period, which is particularly significant in view of the problems that the WTO has faced for an extended period of time.

The goal of the World Trade Organization is to liberalize trade in goods and to create a harmonized, international trade system. These activities are intended to facilitate increasing prosperity and economic stability of countries from various regions and at different levels of economic development. The establishment of the World Trade Organization is considered to be one of the most important events in the international arena in the recent history. The WTO, along with International Monetary Fund and International Bank for Reconstruction and Development, is regarded as the third pillar of the world economic order. The World Trade Organization, therefore, belongs to the most vital global organisms without which the world in its current form would not be able to exist.

Since its inception in 1995, the WTO has performed a central role in shaping the multilateral trading system. Having replaced General Agreement on Tariffs

and Trade (GATT), it has assumed a much broader thematic scope, which was a direct consequence of changes taking place in the multilateral trading system. Therefore, its establishment did not only consist in adopting GATT legacy and expanding its activity – it was the beginning of a new chapter in the multilateral trading system. It quickly became apparent, however, that creating and reinforcing the multilateral trading system is not an easy task, particularly in view of the aftermath of 2007/2008+ Global Financial Crisis and increased multipolarity of the global economy, related to the constantly growing role of the so-called emerging markets. This situation has also indicated that multilateral negotiations within the WTO no longer keep up with the ongoing transformations occurring in the world economy and that the negotiations stalemate, which is difficult to resolve as well as the lack of tangible effects of actions taken, urges a number of countries to take alternative steps to secure their interests in this area. Mainly for this reason, since the turn of centuries, we have been able to witness a considerable increase in the number of regional trade initiatives. Thus, a clear fragmentation of the global trade has occurred, which has been particularly reflected in the regionalization of trade. Within newly created trade blocs, we may observe broader and more comprehensible liberalization of trade than the one within the WTO. Therefore, the disappointment with the multilateral negotiations conducted under the WTO's aegis is one of reasons for proliferation of regional trade agreements (RTAs) all around the world. An upward trend with this regard has been observed in recent years, with Asia-Pacific region having the most free trade agreements. This phenomenon was dubbed the “noodle bowl” effect and is defined as a net of intertwining agreements, composed of trade agreements signed in the region. RTAs, by intersecting on a world scale, cause the global trading system to become even more chaotic.<sup>1</sup>

This fact is confirmed by the current situation i.e. activities leading to the conclusion of the next, ninth negotiating round in the whole GATT/WTO system but the first under the aegis of the WTO. Finding common ground among all WTO members has proven to be a task beyond their capabilities, consequently, some countries focused their efforts on concluding bilateral and multilateral trade agreement.<sup>2</sup>

The aim of the present paper is to analyze the results of functioning of the WTO and the perspectives for its future activities in the context of proliferation of regional trade agreements in the world trade.

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<sup>1</sup> It is connected with the significant differentiation of the rules of origin (ROO). It is worth emphasizing that the number of FTAs including the so-called ASEAN+6 countries increased from 27 established in 2002 to more than 200 in 2015. Cf. *Asia Regional Integration Center*, <https://aric.adb.org> [accessed: 17.06.2016].

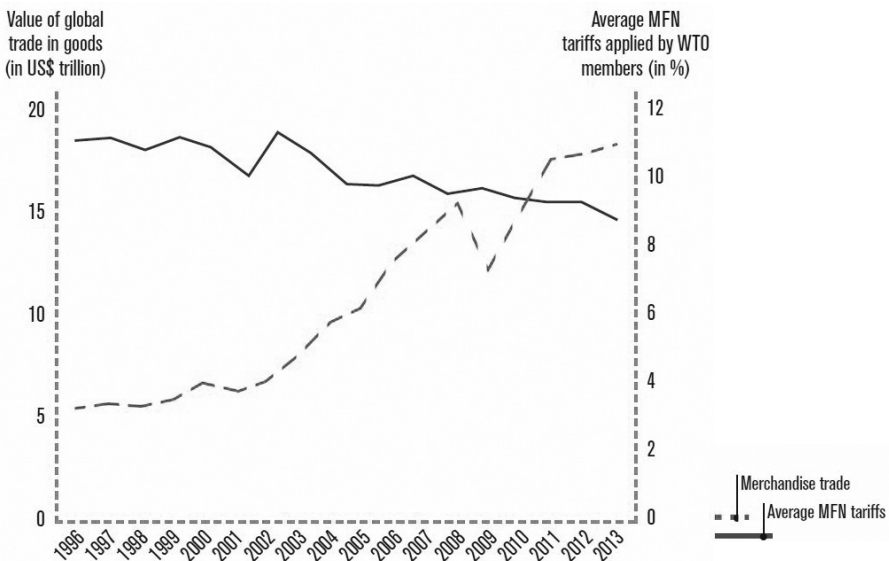
<sup>2</sup> Within the subject literature, we may encounter the terms such as *regional*, *preferential* and *free trade agreements* used interchangeably (RTAs – *Regional trade agreements*, PTAs – *Preferential trade arrangements*, FTAs – *Free trade agreements*). However, the WTO precisely defines that preferential agreements concern unilateral preferences. While regional agreements are defined as trade agreements between at least two partners, in the form of free trade areas or customs unions. Cf. *Regional trade agreements and preferential trade arrangements*, [https://www.wto.org/english/tratop\\_e/region\\_e/rta\\_pta\\_e.htm](https://www.wto.org/english/tratop_e/region_e/rta_pta_e.htm) [accessed: 15.06.2016].

The study is mainly based on the World Trade Organization resources and numerous other studies and reports connected with trade policy and trade regionalization issues.

### WTO achievements – effects of activity

Despite the recent weakening of the organization's position, we ought not to belittle its significance and contribution to the development of the world economy, which was particularly important in the context of the aftermath of 2007/2008+ world economic crisis. To confirm the thesis, we should first consider the significant reduction in import tariff rates, which contributed to growth of the global trade in goods over the past 20 years and this is the most visible symbol of the WTO's achievements. Global trade in goods has increased almost fourfold and reached near to 19 trillion USD in 2014 in comparison with 5 trillion USD in 1996 (see below). This amounts to an average annual growth rate of almost 8%. Another crucial fact is that during that period, tariffs applied by WTO members were reduced on average by 15%.<sup>3</sup>

Figure 1. Tariffs applied by the WTO's members and world trade in goods (1996–2013)

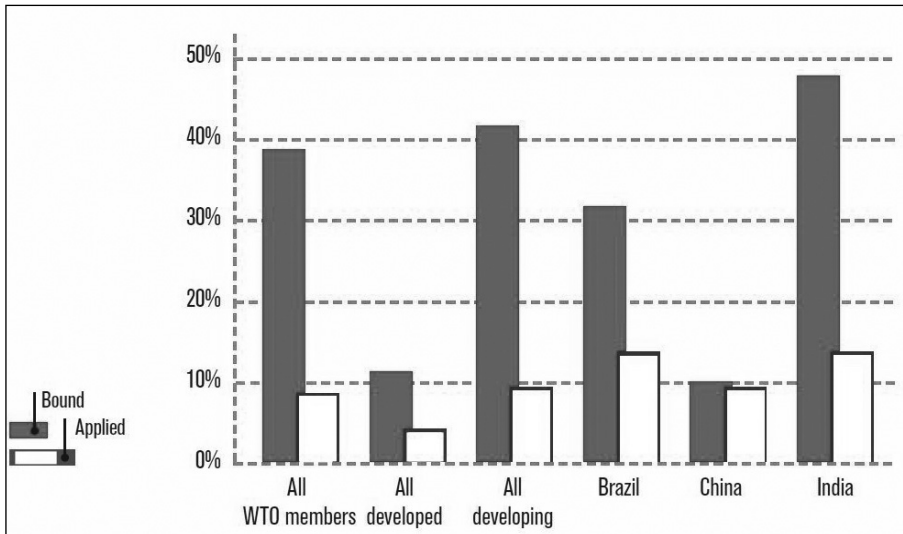


Source: *Trade grows as tariffs decline*, [https://www.wto.org/english/thewto\\_e/20y\\_e/wto\\_20\\_brochure\\_e.pdf](https://www.wto.org/english/thewto_e/20y_e/wto_20_brochure_e.pdf) [accessed: 20.05.2016].

<sup>3</sup> *Trade grows as tariffs decline*, [https://www.wto.org/english/thewto\\_e/20y\\_e/wto\\_20\\_brochure\\_e.pdf](https://www.wto.org/english/thewto_e/20y_e/wto_20_brochure_e.pdf) [accessed: 20.05.2016].

In spite of the fact that, upon joining the WTO, a number of countries have negotiated high ceilings (i.e. upper limits) for their tariffs (as an example Russia), they have consistently reduced the tariffs which they have in fact applied to the imports since becoming a member of the organization. Additionally, of great importance are also the sectoral agreements (such as the Information Technology Agreement), which have also increased trade by obliging the signing parties to completely eliminate tariffs on products covered by the agreement and, moreover, to offer equal concessions to all other members of the organization. This has enabled further trade opening and led to growth in trade.<sup>4</sup>

Figure 2. Tariffs actually applied by WTO's members and bound tariffs



\* Bound tariff rates are committed and difficult to increase

Source: *Trade grows as tariffs decline*, [https://www.wto.org/english/thewto\\_e/20y\\_e/wto\\_20\\_brochure\\_e.pdf](https://www.wto.org/english/thewto_e/20y_e/wto_20_brochure_e.pdf) [accessed: 20.05.2016].

At this stage it is also worth mentioning the sector of services, which represents the most vigorous part of the international trade, growing even more rapidly than trade in goods during the last two decades. That sector is particularly significant as it provides essential inputs into the production and trade of all goods and plays a key function in global value chains (GVC) and economic growth. The legal ground rules for the international trade in services are provided by the WTO's General Agreement on Trade in Services (GATS). A more and more important role in that segment has been played by developing countries and transition economies

<sup>4</sup> *Trade grows as tariffs decline*, [https://www.wto.org/english/thewto\\_e/20y\\_e/wto\\_20\\_brochure\\_e.pdf](https://www.wto.org/english/thewto_e/20y_e/wto_20_brochure_e.pdf) [accessed: 20.05.2016]. ITA is discussed in detail in a subsequent section of the article.

- they increased their share in exports of world services from a one-fourth to one-third over the analyzed period.<sup>5</sup>

The Agreement Establishing The World Trade Organization<sup>6</sup>, with Annexes, was signed, along with the Final Act of the Uruguay Round, on 15 April 1994 in Marrakesh. The main goal of the organization was to establish a common, institutional framework for trade relations among its members. The vast range of agreements that fall within the organization's remit, as well as the fact that it is made up of 162 members, may lead to conflicts between them. That is why a dispute resolution system is so important to the organization's members and is seen as a key element of the multilateral trading system. It is based on Articles XXII and XXIII of GATT 1994 as well as regulations and procedures subsequently defined and laid down in *Understanding on Rules and Procedures Governing the Settlement of Disputes* of the Annex 2 to the Agreement Establishing The World Trade Organization.<sup>7</sup>

The dispute settlement system of the WTO constitutes

a central element in providing security and predictability to the multilateral trading system [...] and it serves to preserve the rights and obligations of Members under the covered agreements" (Article 3, Point 2 of the Understanding).

The principal decision-making authorities of the system are the *Dispute Settlement Body* (DSB) and the Appellate Body. The aim of the system is to achieve a positive resolution of the problem, which may be accepted by parties to the dispute, which, in turn, is understood as a situation in which a WTO member deems that a privilege to which it is entitled, is directly or indirectly denied by another member. A wide range of possibilities that may be employed to reach a compromise does not only include consultations and establishment of a panel (they constitute a major element of the whole procedure), but also „Good Offices, Conciliation and Mediation" (Article 5 of the Understanding) as alternative methods of resolving disputes within the organization, which undoubtedly serves as an example of the specificity of the system.

Owing to the application of Dispute Settlement Understanding, trade is less vulnerable to unilateral, retaliatory actions, which is particularly important in view

<sup>5</sup> *The most dynamic segment of international trade, Trade in services*, [https://www.wto.org/english/thewto\\_e/20y\\_e/services\\_brochure2015\\_e.pdf](https://www.wto.org/english/thewto_e/20y_e/services_brochure2015_e.pdf) [accessed: 20.05.2016].

<sup>6</sup> *Agreement Establishing The World Trade Organization*, [http://www.wto.org/english/docs\\_e/legal\\_e/04-wto.pdf](http://www.wto.org/english/docs_e/legal_e/04-wto.pdf) [accessed: 15.05.2016]. It is worth pointing out that the organization was not planned to be called 'world' but 'multilateral'. This solution was supported by the European Community, which argued that the organization cannot be regarded as a world body until some of the largest economies join it. Those fears were more justifiable in that period than presently since China and Russia are now the members of the organization Cf. C. Van Grassek, *The History and Future of the World Trade Organization*, WTO 2013, p. 67 (Box 2.2. *The upside-down M: how the WTO got its name*).

<sup>7</sup> Cf. Annex 2 to the *Agreement Establishing The World Trade Organization – Understanding on Rules and Procedures Governing the Settlement of Disputes*, [https://www.wto.org/english/docs\\_e/legal\\_e/28-dsu.pdf](https://www.wto.org/english/docs_e/legal_e/28-dsu.pdf) [accessed: 15.05.2016].

of the protectionistic tendencies which re-emerged as a result of the world economic crisis.<sup>8</sup>

The WTO's dispute settlement system is used systematically by developed and developing countries. It may, thus, be inferred that the system works correctly and countries place confidence in its functioning. Furthermore, it plays a critical role in ensuring that WTO agreements are respected. This, in turn, leads to more amicable trade relations between the members and contributes to economic growth.

From the perspective of the main goal of the Development Round, which is more intensive integration of developing countries into the structures of the global trade as well as supporting them in the fight against poverty, it is crucial to note the fact that the understanding in question also takes into account the situation of developing and underdeveloped countries, which may e.g. select an expedited review procedure or apply for an extension of a deadline or additional legal services. WTO Member States are encouraged to pay particular attention to the situation of members – developing countries.

The dispute settlement system is a key WTO instrument, intended to provide security and predictability of the multilateral trading system. Its proceedings are considerably shorter and less formalized, which makes it one of the most effective dispute resolution mechanisms that operate within the present day international organization. On average, cases in the WTO run significantly faster than disputes in other international dispute settlement systems such as the International Court of Justice, the United Nations' primary judicial body, or the European Court of Justice. The average timeframe for WTO panel proceedings is 10 months. In comparison with the ICJ's and the ECJ's it is four and two years respectively.<sup>9</sup> As far as the number of disputes is concerned, nearly 500 disputes have been raised at the WTO during the last two decades (almost five times as many as at the GATT during almost 50 years). It far surpasses the ICJ, which has received slightly more than 160 disputes since its creation 70 years ago, as well as the International Tribunal for the Law of the Sea, (23 cases since its establishment in 1996). The growing number of disputes within the WTO is simply a consequence of expanding the world trade; but the situation that more disputes find their way to the WTO also indicates the increasing trust in the system and the increasing importance members attach to the rule of law in international trade relations.<sup>10</sup> Moreover, this emphasizes the WTO's position with this regard. A solid confirmation of its effectiveness is the fact that the system is employed by virtually all countries. Furthermore, the system is particularly important to developing countries, the use of that system is growing the

<sup>8</sup> See more: E. Majchrowska, *Odrodzenie się tendencji protekcjonistycznych w handlu światowym jako następstwo światowego kryzysu gospodarczego* [in:] M. Czermińska (ed.), *Gospodarka światowa w XXI wieku, Współczesne uwarunkowania i wyzwania*, Kraków 2015, p. 11–29.

<sup>9</sup> *20 years of the WTO, A retrospective*, p. 79, [https://www.wto.org/english/res\\_e/booksp\\_e/20years\\_wto\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/20years_wto_e.pdf) [accessed: 02.06.2016].

<sup>10</sup> *WTO at Twenty, Challenges and Achievements*, p. 61, [https://www.wto.org/english/res\\_e/booksp\\_e/wto\\_at\\_twenty\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/wto_at_twenty_e.pdf) [accessed: 10.06.2016].

fastest among them. This reflects not only their increasing share in the global trade and the position in the organisation but also the importance they attach to the system based on WTO rules, which they employ to maintain their trade-driven growth and development. In the context of the RTAs, it is noteworthy that even members of other regional agreements take advantage of this system in resolving disputes.<sup>11</sup>

Supervision over the national trade policies is an essentially important activity in the work of the WTO. Therefore, another extremely important element from the perspective of the multilateral trading system is the Trade Policy Review Mechanism<sup>12</sup> (TPRM), which constitutes an integral part of the WTO system and concerns all areas of WTO agreements (related to trade in goods, services and issues connected with intellectual property). TPRM chiefly aims at achieving better transparency and understanding of trade policies and practices of WTO members, at encouraging the members to comply with the legally binding rules of the multilateral trading system and, consequently, promoting better functioning of the system. This agreement's goal is periodical, regular and collective assessment of a given member's trade policy and practice as well as its influence on the functioning of the multilateral trading system (Point A, TPRM Agreement).

All members of the organisation are reviewed but the periodicity of each country's review is connected with its share in the world trade. The review of the four dominant members, whose share in the world trade is the largest (currently this group includes the European Union, the United States, Japan and China, and is called the "Quad") is carried out every two years, the next sixteen members – every four years, the remaining members are reviewed every six years with the possibility of a longer interim period for least-developed countries.<sup>13</sup>

Reviews are conducted by the Trade Policy Review Body (TPRB, Point C), based on the reviewed member's declaration of the general trade policy as well as the report prepared by the WTO Secretariat. When compiling the document, the Secretariat requests the assistance of the member under review but assumes full responsibility for facts and opinions included in the report. After the TPRB proceeding, the Secretariat's report, the member's declaration, the proceeding's report as well as TPRB Chair's concluding remarks are published. This allows for better transparency of actions taken by members of the organization.<sup>14</sup>

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<sup>11</sup> As an example NAFTA. See more: *ibidem*, p. 7.

<sup>12</sup> Cf. Annex 3 to the *Agreement Establishing The World Trade Organization – Trade Policy Review Mechanism*, [http://www.wto.org/english/docs\\_e/legal\\_e/29-tprm.pdf](http://www.wto.org/english/docs_e/legal_e/29-tprm.pdf) [accessed: 21.05.2016].

<sup>13</sup> *Trade policy reviews*, [https://www.wto.org/english/tratop\\_e/tpr\\_e/tpr\\_e.htm](https://www.wto.org/english/tratop_e/tpr_e/tpr_e.htm) [accessed: 21.05.2016].

<sup>14</sup> Trade policies and practices of every member country of the WTO are examined by Trade Policy Reviews. The reports look not only into the country's wider economic environment but also provide an analysis by sector and by trade measure. The surveys consist of three principal parts: an independent report by the WTO Secretariat, a report by the government, and the concluding remarks by the Chair of the WTO's Trade Policy Review Body following discussion of the

When analyzing the effects of the WTO legacy, we cannot forget the first multilateral trade agreement to be completed since the WTO was created – the Trade Facilitation Agreement (TFA) which is a part of the adopted during the 9th Ministerial Conference the so-called Bali Package, which is regarded as an element capable of resolving the negotiations stalemate within the WTO. It includes a range of measures for moving goods fast across borders and is motivated by the greatest practices from different countries. The agreement aims to simplify and harmonize international trade procedures; including simplifying the requirements for documents, promoting electronic payments and granting better access to publications treating of customs regulations. Moreover, what is important in terms of the goal adopted at the Development Round, for the first time in the history of the organisation, the commitments of least developed countries (LDCs) and developing countries are connected with their ability to implement the agreement. Additionally, the agreement states that those countries need to receive support to implement the TFA and because of that the Trade Facilitation Agreement Facility (TFAF) was established.<sup>15</sup>

Trade facilitation is defined as “the simplification, modernization, and harmonization of export and import processes”.<sup>16</sup> The Agreement is particularly important because of the changes in the global trade landscape and a need for reducing trade costs, which are still high despite a marked decrease in the cost of transportation, advancements in information and communication technology, and the lowering of trade barriers in many countries. The TFA has the ability to reduce trade costs notably and thereby to expand the world trade and production. High trade costs are noticeable especially in low-income economies. As an example in developing countries, those costs are comparable to applying a 219% *ad valorem* tariff on international trade. As far as the high-income economies are concerned, the same product would meet an *ad valorem* equivalent of 134%. As it is stressed in the WTO report, full implementation of the TFA has the potential to decrease the member-countries’ total trade costs by an average of 14.3% (the range is between 9.6% and 23.1% and depends on the country and the sector). Moreover, the reduction of time to import and export may also be significantly lowered as far as the full implementation of TFA is concerned (by more than a day and a half and by almost two days for import and export respectively).<sup>17</sup>

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review. See: *Trade Policy Review*, [https://www.wto.org/english/tratop\\_e/tpr\\_e/tpr\\_e.htm](https://www.wto.org/english/tratop_e/tpr_e/tpr_e.htm) [accessed: 20.06.2016].

<sup>15</sup> *Easing the flow of goods across borders, Trade facilitation agreement*, [https://www.wto.org/english/thewto\\_e/20y\\_e/wto\\_tradefacilitation\\_e.pdf](https://www.wto.org/english/thewto_e/20y_e/wto_tradefacilitation_e.pdf) [accessed: 20.06.2016].

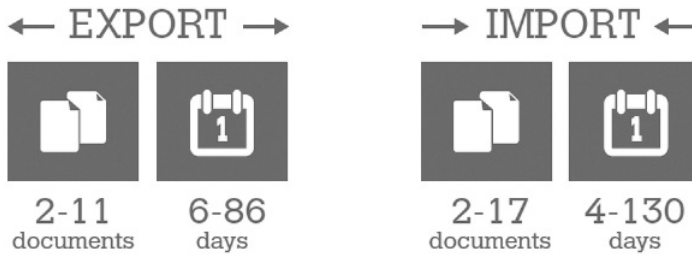
<sup>16</sup> World Trade Report 2015, *Speeding up trade: benefits and challenges of implementing the WTO Trade Facilitation Agreement*, WTO 2015, p. 34.

<sup>17</sup> African countries and LDCs are the groups that are expected to see the largest average decrease in trade costs (more than 16%) from the full enforcement of the TFA, what will also reduce trade costs of manufactured goods by 18% and of agricultural goods by more than 10%. World Trade Report 2015, *Speeding up trade: benefits and challenges of implementing the WTO Trade Facilitation Agreement*, WTO 2015, pp. 4–11.



The average transaction under current border procedures can comprise many steps, as presented in Figure 3.

Figure 3. Customs procedures in the world



Source: World Bank “Doing Business” project, 2015, <http://www.doingbusiness.org>.

Developing countries may achieve the most from fast and full implementation of the TFA. Many analyses presented in the WTO reports<sup>18</sup> show that developing countries’ exports are anticipated to increase by between 170 and 730 bln USD per annum. Moreover, by 2030, full and accelerated implementation of the TFA could increase developing countries’ economic growth by 0.9% annually. As regards the decline of tariff and non-tariff barriers around the world, it is noticeable that the measures connected with trade facilitation are becoming more and more significant for the development of international trade.

It is worth stressing that trade facilitation is also included in numerous RTAs<sup>19</sup> which are presently being negotiated – over 90% of ratified RTAs, currently in force, have provisions in that area, but the analysis reveals that RTAs essentially contain only a part of the issues covered by the TFA. One very significant field of the TFA that RTAs ordinary do not cover is S&D treatment and technical assistance.<sup>20</sup>

It is said that TFA will be beneficial for all WTO’ members because of the fact that the costs connected directly with the implementation of the agreement are estimated to be considerably smaller than the expected gains from improving the flow of goods between countries.<sup>21</sup>

The TFA will enter into force when two-thirds of WTO members ratify the agreement. Hong Kong, China, was the first member to do so in December 2014.

<sup>18</sup> See more: *ibidem* and WTO Annual Report 2016.

<sup>19</sup> TPP as an example. The trade facilitation agreement in the TPP is not clearly linked to the WTO TFA, but it deals with the same problems connected with publishing of customs information, cooperation among customs authorities, and customs and trade logistics. See more: *Assessing The Trans-Pacific Partnership*, Volume 2: *Innovations In Trading Rules*, PIIE, March 2016, p. 67–68.

<sup>20</sup> World Trade Report 2015, *Speeding up trade: benefits and challenges of implementing the WTO Trade Facilitation Agreement*, WTO 2015, p. 39.

<sup>21</sup> *Easing the flow of goods across borders, Trade facilitation agreement*, [https://www.wto.org/english/thewto\\_e/20y\\_e/wto\\_tradefacilitation\\_e.pdf](https://www.wto.org/english/thewto_e/20y_e/wto_tradefacilitation_e.pdf) [accessed: 20.06.2016].

By the end of 2015, the agreement had been ratified by over 50 countries. WTO Director-General stressed the fact that the ratified agreement had been an unprecedented success in the history of the WTO while adopting the Bali Package let the organization to regain its international character.<sup>22</sup>

Since the creation of the organization in 1995, the WTO has extended its range by adding 34 new members, with a further more than 20 with the observer status, by the end of 2015. Of particular importance, from the perspective of the aim of the Development Round, is the accession of new developing countries, which, as it is visible within the WTO, strengthens their position in the organization and significantly reinforces the multilateral trading system.

Another milestone for the organization was the accession of China in 2001, Saudi Arabia in 2005 and Russia in 2012, which had been the largest economies outside the WTO.

New economies, by joining the WTO, increased the total number of members to 162 (June 2016), which includes over 7 billion people and 98% of world trade in comparison with 91% in 1995, when organization was established. It should also be mentioned that while the GATT was dominated by the industrialized economies, within the WTO the major role is played by developing countries, which have a big impact on negotiating its agreements, managing the organization and shaping its agenda.<sup>23</sup>

It is said that accessions to the organization have resulted in a transformation of the development of the economic and trade policies of China, Vietnam, the Russian Federation<sup>24</sup> and Kazakhstan, as well as other countries, such as Afghanistan and Iran, which are to complete their accession negotiations. The accessions of new members have extended the range of the WTO, and what is particularly important, the negotiation process prior to the accession to the WTO, connected with satisfying the accession requirements have worked as a “catalyst” for the internal reforms in these countries.<sup>25</sup>

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<sup>22</sup> *World back in WTO*, Ministerial Conferences, Statements from the closing session, Statement by Mr. Roberto Azevêdo, Director-General – WTO, WTO 2013.

<sup>23</sup> *Expanding world trade and strengthening WTO rules, WTO Accessions*, [https://www.wto.org/english/thewto\\_e/20y\\_e/acc\\_brochure2015\\_e.pdf](https://www.wto.org/english/thewto_e/20y_e/acc_brochure2015_e.pdf) [accessed: 12.06.2016].

<sup>24</sup> Similarly, as it was the case for other countries e.g. China, carrying out internal reforms in the economy as well as ensuring conformity with WTO regulations in terms of tariffs, intellectual property or subsidies, was a requirement given to the Russian Federation so as to join the organization. Russia had already expressed an intention of joining the GATT in 1993, however, it took ten more years to expedite the adjustment process by adopting the Customs Code, which enabled liberalization in this area. It is worth noting that Russia successfully negotiated very long transitional periods, lasting even nine years. Russia’s membership in the WTO obliges the country to transparency in its trade policy and limits the possibility of imposing protectionistic barriers. See more: WTO: 2011 News Items, *Working Party seals the deal on Russia’s membership negotiations, Information about the Russian Federation’s WTO commitments*, 10 November 2011.

<sup>25</sup> Seminar: *Eurasia – The Last or New Frontier for the WTO?*, <http://www.adb.org/news/events/eurasia-last-or-new-frontier-wto> [accessed: 11.06.2016].

Therefore, the accessions of new members are important not only to the organization, while reinforcing the multilateral trade but also for the acceding countries, which undertake internal reforms. The process of WTO negotiations before accession has consequently served the purpose of improving the economy's governance and has helped to shape new opportunities for those future members by increasing the predictability, transparency and competitiveness.<sup>26</sup>

### **Proceedings and effects of WTO Ministerial Conferences**

The WTO defines the rules of the present-day world trade. The highest authority is ascribed to regular Ministerial Conferences<sup>27</sup> of Member States, which are held at least once every two years. The aim of these sessions, as in the case of negotiation rounds, is to negotiate trade issues between particular member countries. It is also at these gatherings where the previous WTO activity, prospects of future activity as well as goals for a given period of time, predominantly the reduction of trade barriers, are discussed and evaluated.

By the end of 2015 there had been ten WTO Ministerial Conferences, another one is planned for the end of 2017.

While analyzing effects of particular MCs, it is worth noting that the Conference in Singapore contributed to taking another step towards liberalization of trade by adopting the aforementioned Information Technology Agreement, which was the first and most important arrangement connected with tariff liberalization negotiated within the WTO. The big impact of this agreement stems from the specificity of trade of IT products, which is estimated at almost 1.5 trillion USD annually (circa 7% of global trade). The importance of this sector to the world economy is also evident by the fact of taking the decision to further liberalize it, also taking into consideration the problem of non-tariff barriers (NTBs) to trade in IT sector. A part of WTO members reached agreement in 2015 on the second, expanded IT deal, with additional more than 200 products, which reflects the technological development from the moment of signing the first agreement in 1996.<sup>28</sup>

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<sup>26</sup> As an example, inward FDI tends to rise essentially after WTO accession. according to UNCTAD's 2015 World Investment Report in Cambodia, FDI increased by 565% between 2007 and 2014, while in Chinese Taipei it increased by 128% between 2002 and 2014. See more: *Expanding world trade and strengthening WTO rules*, WTO Accessions, [https://www.wto.org/english/thewto\\_e/20y\\_e/acc\\_brochure2015\\_e.pdf](https://www.wto.org/english/thewto_e/20y_e/acc_brochure2015_e.pdf) [accessed: 12.06.2016].

<sup>27</sup> Between the sessions, the function of MC is carried out by the General Council, which also performs the tasks of Trade Policy Review Body and Dispute Settlement Body. Its direct subordinates are the three Councils (Council for Trade in Goods, Council for Trade in Services and Council for Trade-Related Aspects of Intellectual Property Rights – TRIPS). These Councils supervise the working bodies i.e. committees and working groups. The Ministerial Conference is also entrusted with the task of appointing Director-General, who is charge of the WTO Secretariat.

<sup>28</sup> *WTO at Twenty, Challenges and Achievements*, p. 36, [https://www.wto.org/english/res\\_e/booksp\\_e/wto\\_at\\_twenty\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/wto_at_twenty_e.pdf) [accessed: 10.06.2016].

Table 1. The review of WTO Ministerial Conferences

MC	Place and year	Significant provisions
I	Singapore, 1996	<i>Information Technology Agreement (ITA)</i> – agreement on eliminating customs duties on information technology equipment and products; discussion on the topics of trade and competition and transparency in government procurement i.e. Singapore topics;
II	Geneva, 1998	positive assessment of WTO activities; formal initiation of the process of discussions and preparations for future negotiations i.e. the Development Round;
III	Seattle, 1999	suspension of proceedings, revealing existing conflicts of interests in the world of economy; no official document, accepted by the Member States, was compiled, mainly due to inability to reach a compromise between developed and developing countries;
IV	Doha, 2001	a decision was made to start another negotiation round (Doha Development Round)* the effect of which was to be strengthening developing countries but also introducing procedural simplifications in the foreign trade in goods related to the reduction of ‘paper’ formalities and a broader use of newest IT systems;
V	Cancún, 2003	another failure ascribed to the reluctance of rich countries to stop subsidizing agriculture and export;
VI	Hong-Kong, 2005	the most crucial provisions concerned trade-distorting domestic support (i.e. market prices support and direct subsidies for farmers), food production, level of tariff protection (access to the market) as well as export subsidies;
VII	Geneva, 2009	a very short final report** stressed that the participation of 153 members indicates the significance the WTO has, particularly in the context of the global economic crisis; it was also mentioned that the WTO played an important role in alleviating the negative effects of the crisis; topics which were brought up included LDCs and their free access to markets of developed countries, the issue of cotton and <i>LDC Waiver*** for Services</i> ; <b>another matter which was analyzed was an increasing number of bilateral and regional agreements and their complementarity with the WTO system;</b>
VIII	Geneva, 2011	documents regarding the accession of Russia (as well as Montenegro and Samoa) were accepted; the focal point were developing and least developed countries (issues that were touched on included: concessions on obligations related to TRIPS, service market, expediting the accession of these countries to the WTO); the conference did not contribute significantly to finalizing the provisions of the Development Round;
IX	Bali, 2013	a breakthrough in the ongoing negotiations; signing of a trade agreement – <i>Bali Package****</i> consisting of ten agreements dealing with key negotiations issues (TFA, agriculture, issue of cotton trade as well as problems of developing and least developed countries) is the first global agreement signed by all WTO members; the discussions did not proceed unanimously, so far, the most difficult negotiation topic has been the matter of agriculture with the issue of agricultural subsidies being the most disputable matter;

X	Nairobi, 2015	adoption of the so-called <i>Nairobi Package</i> which includes selected elements related to negotiations within Doha Development Agenda (DDA); the major part of the package are provisions relating to export competition in agriculture (developed countries are to gradually eliminate – the last ones until 2020 – all export subsidies present on their current concessions lists, in the case of developing countries, the elimination of export subsidies will be finalized until 2022; the same decision imposes additional limitations on employing other mechanisms of support of agricultural export – export loans, food support, functioning of government trade companies as well as subsidies intended for developing countries e.g. for transport or other costs connected with export of goods;
XI	2017	planned

\* The Doha Round formally began on 31 January 2002 and includes negotiations in the areas of: agriculture; services; access to non-agricultural products; trade-related aspects of intellectual property rights; relationship between trade and investment; interaction between trade and competition policy; transparency in government procurement; trade facilitation; anti-dumping and subsidies; regional trade agreements; dispute settlement provisions; relationship between trade and environment; electronic commerce; small economies; trade, debt and finance; trade and transfer of technology; technical cooperation and capacity building; LDCs; special and differential treatment of developing countries. Cf. *Ministerial Declaration*, WT/MIN(01)/DEC/1, Adopted on 14 November 2001.

\*\* WTO, Seventh Ministerial Conference, *Chairman's Summary*, WT/MIN(09)/18, 2 December 2009.

\*\*\* *Waiver* is an exception to the MFN (Most Favored Nation) principle – exemption from obligations to WTO provisions; it is defined in terms of time and must be justified; the most notable *waiver* is the GSP (Generalized System of Preferences) system which allows developed countries to grant preferential import tariffs to developing countries.

\*\*\*\* According to the WTO, the benefits for the world economy, resulting from signing this agreement are estimated to oscillate between 400 billion USD and even 1 trillion USD, which is to be a consequence of the aforementioned reduction of trade costs by 10–15%. The adopted changes are to affect positively the global trade flows and increase the gross world product by even 1% annually. *The Bali Ministerial Declaration*, WT/MIN/DEC/W/1/Rev.1, 7 December 2013, World Trade Organization.

Source: Author's own elaboration based on: *WTO, Ministerial Conferences*, [http://www.wto.org/english/thewto\\_e/minist\\_e/minist\\_e.htm](http://www.wto.org/english/thewto_e/minist_e/minist_e.htm) [accessed: 09.06.2016]

It should be noted that between the arranged MC sessions, there are also other meetings of the organization, often referred to as Mini Ministerial Meetings.

An example of this may be the WTO General Council meeting in Geneva by the end of July 2004, when a framework agreement containing plans of further liberalization of the world trade was signed (*The July 2004 package*). The most significant issues included there concerned agriculture, arrangements regarding cotton and industrial goods. The agreement was of a preliminary nature and contained points for future negotiations; it also informed of an increased willingness of countries to liberalize trade. Therefore, it was treated as a beginning of a process of liberalization of the world trade and it was necessary to complement it with a schedule of the elimination of the abovementioned barriers as well as state details concerning the level of planned reductions.

Even before the 2005 summit in Hong-Kong itself, there was a heated debate presenting the conflict of interests between WTO members. In order not to let another breakdown of talks to happen (it was feared that it may cast a bad light on way in which the organization operates, undermine the faith in the future trade negotiations and even the relevance of WTO's existence – as it is currently observed, those fears were justifiable) the Member States – before the start of the summit in Hong-Kong – decided not to discuss the detailed plan (modalities) of finalizing the 2006 Doha Round (by, once again, postponing the deadline to the beginning of 2007).

Another breakthrough in the longest-running Round was supposed to happen at the meeting of ministers in Geneva on 21 July 2008 (mini MC). In light of the fact that in 2008 the negotiations were on a fast track and since 2007 there had been an increase in prices of agricultural products, it was assumed that it would be possible to reach a compromise in agriculture and access to the market of non-agricultural products. Unfortunately, this meeting also ended up a failure. In July 2008, at the formal meeting of *Trade Negotiations Committee*, the then the Director-General Pascal Lamy, concluded that WTO members were not able to bring their positions closer, and surprisingly, the reason for the deadlock were not, as it had been expected, the *modalities* concerning access to the market of agricultural and non-agricultural products, but the issue of *Special Safeguard Mechanism* (SSM<sup>29</sup>), which gave developing countries a possibility to increase import tariffs in a situation of a dynamic growth of agricultural products or a marked drop in their prices in order to prevent volatility of the agricultural market. Even though there were numerous matters where the negotiating parties were able to bring their positions closer, in line with the adopted at the Development Round principle of 'single undertaking' ("Nothing is agreed until everything is agreed") no agreements were successfully concluded.<sup>30</sup> However, it is worth stressing that the previous negotiating rounds also had not proceed as planned and each subsequent session was longer than the preceding one. Each successive attempt at negotiating facilitation in trade has proven to be even more complicated due to, among other things, an increasing number of members of the organization. Furthermore, the negotiation efforts seem to revolve around the difficult matter of agriculture<sup>31</sup> – including subsidies as the subject of numerous controversies and conflicts of interests.

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<sup>29</sup> *Negotiations can find compromise on the safeguards issue*, 13 August 2008, WTO News; Speeches – DG Pascal Lamy.

<sup>30</sup> WTO: 2008 News Items, *P. Lamy calls for „serious reflection” on next steps*, 30 July 2008.

<sup>31</sup> Agriculture is, on the one hand, a priority sector for least developed and developing countries, and on the other hand, a sector of great strategic and political significance for developed countries.

## **WTO negotiations impasse as a multidimensional problem**

The problem of negotiations stalemate is rather complex and concerns several matters. The major points of divergence of negotiating positions are, undoubtedly, the conditions of liberalization of access to the agricultural products market, and obligations of developed countries to reducing the amount of financial support to agriculture. On the other hand, rich countries expect better access to markets of poorest countries for their services, mainly banking and telecommunications. Furthermore, there is also an issue of non-agricultural goods (NAMA – *Non-Agriculture Market Access*), which is broadly defined in Paragraph 16 of Doha Ministerial Declaration and calls WTO members

to reduce or as appropriate eliminate tariffs, including the reduction or elimination of tariff peaks, high tariffs, and tariff escalation, as well as non-tariff barriers, in particular on products of export interest to developing countries [...],

the way of implementing the changes, however, is to be negotiated (“by modalities to be agreed”). The other matters that also need to be addressed i.e. the scale and method of liberalization, are left to be discussed during negotiations.<sup>32</sup>

It is commonly believed that reaching a consensus in the last, ongoing since 2002, round of negotiations is an incomparably more difficult task than in the previous rounds. The reason for this is an increase in the number of the organization’s members that represent different interests as well as expanding the scope of negotiations itself. Emergence of new leaders such as China, India or Brazil has undermined the dominant position of the previous economic superpowers – the United States of America and the European Union, and this shift in the balance of power has also been reflected in the negotiations under the aegis of the WTO. Moreover, involvement of other developing countries has also increased in comparison with the previous rounds.<sup>33</sup> As a result of all this, it has been extremely challenging to reconcile the defensive and offensive interests of particular groups.<sup>34</sup> Insufficient progress in negotiations is also ascribed to the formula of negotiations i.e. the prin-

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<sup>32</sup> Cf. *Ministerial Declaration*, WT/MIN(01)/DEC/1, Adopted on 14 November 2001 (Paragraph 16).

<sup>33</sup> Currently, the majority of developing countries have become more active in negotiations due to adopting the open development strategy. In the past these countries took advantage of the MFN status, granted by developed countries. Cf. M.G. Plummer, *The Emerging “Post-Doha” Agenda and the New Regionalism in the Asia-Pacific*, *op. cit.*, p. 4 and ff.

<sup>34</sup> It is worth noting that within the ongoing negotiation round, numerous negotiation coalitions of countries have been formed with group coordinators or negotiating teams acting on behalf of coalitions. The purpose of this is to simplify the negotiation process. Currently, 27 such groups may be distinguished e.g. African group, G-90, RAMs (*recently acceded members*), Cairns group, Cotton 11, G-33. Cf. *Groups in the WTO*, [http://www.wto.org/english/tratop\\_e/dda\\_e/negotiating\\_groups\\_e.pdf](http://www.wto.org/english/tratop_e/dda_e/negotiating_groups_e.pdf) [accessed: 10.06.2016].

principle of a single undertaking and resignation from quantifiable negotiations aims.<sup>35</sup> What is more, some aims which were adopted for the Development Round, have already been achieved by other means. It mainly concerns the reduction of tariff protection – many countries (such as China, Brazil or India mentioned above) have reduced tariffs unilaterally (though only on industrial goods) as part of economic reforms and processes of regional integration. Moreover, as a consequence of multilateral GATT/WTO negotiations, much of the world trade is subject to zero tariffs (MFN duty rate, i.e. connected with importing from other WTO Member States).

Prolonging negotiations within the ongoing Development Round have already secured it a status of the longest-running round in the history of the whole GATT/WTO system. It should not go unnoticed that the negotiations failure within the Development Round has already started to cause bilateral and regional agreements to grow in importance, with participants of these agreements expressing a wish for further liberalization of trade. Without a doubt, this state of affairs is confirmed by the fact that in February 2016 the WTO received as many as 625<sup>36</sup> (counting goods, services and accessions separately) notifications regarding RTAs, of which 419 has entered into force and are still legally binding.<sup>37</sup> The chart below shows the evolution of all RTAs notified to the GATT/WTO system, including inactive RTAs, by year of entry into force.

When comparing the periods of operation of GATT and WTO, it should be stressed that in the period 1948–1994, the GATT received 124 notifications of RTAs (relating to trade in goods), and since the establishment of the WTO in 1995, over 400 new agreements covering trade in goods or services have been notified and many are still under negotiation.<sup>38</sup> A related point to consider is the fact that during the years the structure of RTAs has changed as well. A great share of earlier RTAs was concluded between countries of the same level of development. Currently, such agreements are often concluded between developed and developing countries. Furthermore, the present-day RTAs are much more open to accepting new members in the future. Within new trade blocs which are being created, we may observe broader and more comprehensible liberalization of trade than the one within the WTO. This is the reason why such agreements are also referred to as „WTO-plus”.<sup>39</sup>

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<sup>35</sup> The resignation from the measurable (expressed as numeric/percentage values) negotiation goals have not affected the progress of talks positively. This sets it apart from the previous rounds in which the scale of reduction of customs duties was established just after the rounds had commenced.

<sup>36</sup> 454 physical RTAs (when counting goods, services and accessions together), of which 267 are in force.

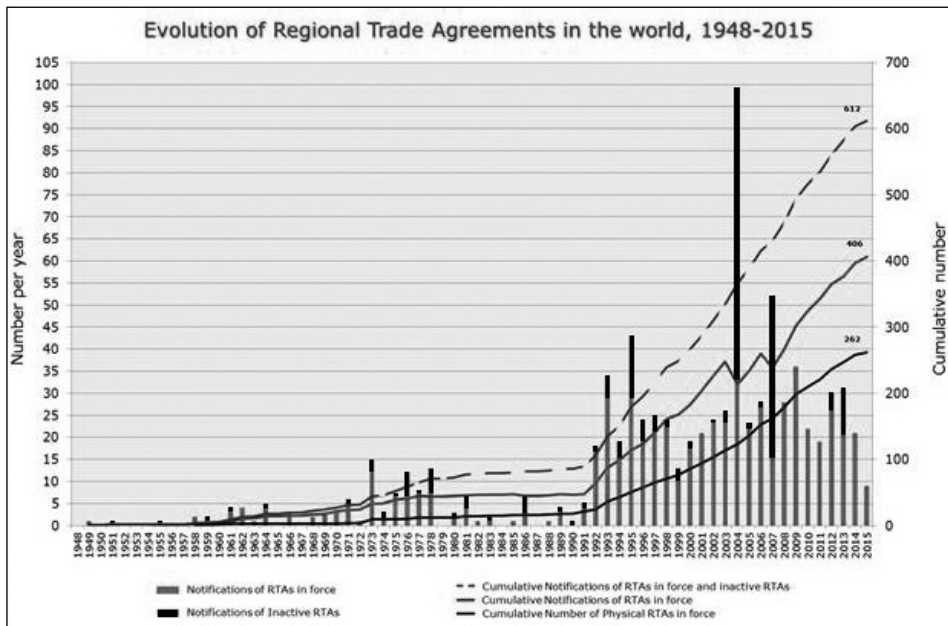
<sup>37</sup> Cf. *Regional trade agreements*, [https://www.wto.org/english/tratop\\_e/region\\_e/region\\_e.htm](https://www.wto.org/english/tratop_e/region_e/region_e.htm) [accessed: 25.06.2015].

<sup>38</sup> This means 24 notifications per year since the establishment of the WTO, compared to three on average during the GATT period.

<sup>39</sup> There has been a substantial enlargement in the contents of the RTAs going beyond the scope of WTO negotiations. Contents of the RTAs may be divided into 14 „WTO+” and 38



Figure 4. Development of RTAs in the world (1948–2015)



Source: Facts and figures, [https://www.wto.org/english/tratop\\_e/region\\_e/regfac\\_e.htm](https://www.wto.org/english/tratop_e/region_e/regfac_e.htm) [accessed: 03.06.2016].

What is more, according to WTO data<sup>40</sup>, all its members (except for Mongolia) belong to at least one trade agreement. This is definitely a growing trend, particularly in the view of numerous RTAs currently under negotiation. It must be stressed that 90% of all RTAs are Free Trade Areas (FTAs) and Partial Scope Agreements i.e. only some types of goods (or sectors) are eligible for preferential treatment. The remaining 10% are customs unions. The most regional trade agreements in the recent years have emerged in the Asian-Pacific region. As an example, the number of FTAs including the so-called ASEAN+6 countries increased from 27 established in 2002 to more than 200 in 2015.<sup>41</sup>

It is also connected with the emergence of new global trade leaders, particularly China and India, which has significantly weakened the previous superpowers – the USA and the EU, and which shows the shift of the economic development

„WTO-X” areas. WTO+ are provisions that fall under the current mandate of the WTO, and WTO-X provisions refer to obligations that are outside the current WTO mandate. For instance, investment, environmental laws and competition policy are WTO-X provisions. See more: T. Atsumi, *WTO-X aspects of recent RTAs*, Meiji Gakuin University, 2010, pp. 57 and ff., <https://www.meijigakuin.ac.jp/econ/academics/publications/research/PDF/146-5.pdf> [accessed 20.06.2016].

<sup>40</sup> *Regional Trade Agreements Information System*, <http://rtais.wto.org/UI/PublicMaintain-RTAHome.aspx> [accessed: 20.06.2016].

<sup>41</sup> *Asia Regional Integration Center*, <https://aric.adb.org/fta-trends-by-status> [accessed: 17.06.2016].

pole towards Asia, particularly the Far East. The emerging markets have taken up the role of the global economic growth ‘locomotive’, especially in the context of the GFC 2007/2008+ aftermath, which results in the situation in which as much as 90% of the future global economic growth will take place outside the European borders. This state of affairs is also reflected in the negotiations within the WTO.

## WTO and Regional Trade Agreements

A constant growth in the number of RTAs is defining feature of the current international trade. WTO members which are parties to such agreements are obliged to inform the organization on the newly concluded agreements.<sup>42</sup>

It is important to note that the WTO allows its members to take part in such agreements. It is related to the general rule of the WTO i.e. the aforementioned most-favoured-nation (MFN) treatment and acknowledging certain exceptions to this rule, the most important of which is the ability to create free trade areas and customs unions with preferential rules for their members as long as it is in accordance with conditions stated in Article XXIV of GATT.<sup>43</sup> The most significant provisions of this article are regulations stating that the purpose of a customs union or of a free trade area should be to facilitate trade between the constituent territories and not to raise barriers to the trade with other WTO members. To conclude, RTAs must cover “substantially all trade”, and facilitate trade flow between the countries in the RTA without raising barriers to trade with the outside world. . In other words, the regional integration should not threaten the multilateral trading system but compensate it.<sup>44</sup>

Despite the fact that regional agreements seem to be inconsistent with WTO rules, a key issue is the opinion of the organization itself, which stresses that such agreements may support the multilateral trading system. RTAs give a group of countries a possibility to negotiate rules or commitments which are beyond the scope of multilateral negotiations. As a result, some of them paved the way for multilateral agreements within the WTO.<sup>45</sup>

However, on the other hand, according to the WTO, regional agreements should not be a substitute for the multilateral trading system as many important issues – trade facilitation, services liberalization or farming and fisheries subsidies

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<sup>42</sup> Cf. *Regional trade agreements: The WTO's rules*, [https://www.wto.org/english/tratop\\_e/region\\_e/regrul\\_e.htm](https://www.wto.org/english/tratop_e/region_e/regrul_e.htm) [accessed: 21.05.2016].

<sup>43</sup> Apart from the abovementioned article, other exceptions include the so-called *Enabling Clause* related to preferential tariff arrangements (PTAs) for trade in goods with developing countries as well as Article V of the General Agreement on Trade in Services (GATS), which concerns RTAs in area of trade in services, in the case of both developed and developing countries

<sup>44</sup> Cf. *Regionalism: friends or rivals?*, [https://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/bey1\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/tif_e/bey1_e.htm) [accessed 22.06.2016].

<sup>45</sup> It mainly concerns services, intellectual property, investments and competition policy

– can only be tackled widely and effectively through the WTO. Additionally, a multilateral system guarantees the participation of the smallest and most vulnerable and weak countries and supports their integration into the structures of the world trade.<sup>46</sup>

It should not be overlooked that RTAs are often constructed on the foundations of the multilateral system and a great deal of their basic procedures and rules come straight from the GATT/WTO system – in some areas they simply mirror those rules, in others they build on WTO approaches. Moreover, we may observe a clear tendency of RTAs to avoid undertaking the most protected and difficult sectors, especially agriculture, and leave them under MFN rates.<sup>47</sup>

It seems then, that the WTO is aware of the growing tendencies towards regionalism and realizes the problems for the global trading system that might be caused by this phenomenon. There are, in fact, several challenges for the WTO related to regionalism, but the most critical one concerns the exception allowed by the already cited Article XXIV GATT (exception to MFN principle): if realistically every member of the organization participates in at least one agreement (some members are party to twenty or more), we may infer a conclusion that in the current situation, the exception has already become the rule.<sup>48</sup>

Many members of the WTO are still involved in new negotiations and creation of new RTAs, most of which are bilateral negotiations. Nevertheless, especially in the recent years, we have been able to witness the creation of agreements between several members of the WTO (plurilateral agreements). The most significant mega-regional negotiations under way that are changing the face of world trade are: Trans-Pacific Partnership (TPP) currently between 12 parties<sup>49</sup> and between ASEAN members and six other WTO members (the whole group is called ASEAN+6) with which ASEAN has agreements in force - the Regional Comprehensive Partnership Agreement (RCEP).<sup>50</sup> Not without meaning are negotiations which are held in other parts of the world. The noteworthy example is the Transatlantic Trade and Investment Partnership (TTIP) between the European Union<sup>51</sup> and

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<sup>46</sup> Briefing note: *Regional trade agreements, Tenth WTO Ministerial Conference*, Nairobi, 2015, [https://www.wto.org/english/thewto\\_e/minist\\_e/mc10\\_e/briefing\\_notes\\_e/brief\\_rta\\_e.htm](https://www.wto.org/english/thewto_e/minist_e/mc10_e/briefing_notes_e/brief_rta_e.htm) [accessed:16.06.2016].

<sup>47</sup> Cf. *WTO at Twenty, Challenges and Achievements*, p. 8, [https://www.wto.org/english/res\\_e/booksp\\_e/wto\\_at\\_twenty\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/wto_at_twenty_e.pdf) [accessed: 10.06.2016].

<sup>48</sup> See more: M.G. Plummer *The Emerging “Post-Doha” Agenda and the New Regionalism in the Asia-Pacific*, ADBI Working Paper Series, No. 384, October 2012, p. 6.

<sup>49</sup> Negotiations concluded in October 2015. Now there is a need for domestic processes to put the agreement in place.

<sup>50</sup> RCEP consists of 10 ASEAN countries and Australia, China, India, Japan, South Korea and New Zealand. Nonetheless, China is analyzing the TPP because it knows that no influence on the development of the two biggest RTAs (TPP and TTIP), with the USA as a participant, is not favourable. Cf. *The Economist, Trade, partnership and politics*, 24<sup>th</sup> August 2013.

<sup>51</sup> The EU has at its disposal a vast array of agreements, mostly bilateral, often in the form of DCFTA.

the United States.<sup>52</sup> Such agreements may have the potential to reduce the “noodle bowl” effect of RTAs, especially if they replace existing bilateral agreements (such as RCEP) and develop common rules (such as for rules of origin) to be applied by all the parties to the agreement.<sup>53</sup> The scale of these initiatives may result in a re-definition of the rules of the international trade, and may change the multilateral trading system and influence the proceedings of the Doha Round. Moreover, it will probably have substantial influence on the geographical distribution of power in the world trade over the next few years. The intention of these initiatives is to create extensive, integrated spaces not only at the regional level (especially in Asia), but also at the trans-Atlantic and trans-Pacific levels. Furthermore, it is clear that these agreements are also significantly interconnected. It is reflected in the membership of some countries in, for instance, two mega-regional trade blocs (MRTAs).<sup>54</sup> It is believed that RCEP is a response and counterbalance to TPP in the Asia-Pacific region. What is more, along with the TPP, the RCEP is a potential way to a Free Trade Area of the Asia Pacific (FTAAP), which was also underlined in the preamble of TPP.<sup>55</sup>

### **WTO development perspectives – the future of the organization in the context of proliferation of RTAs**

The number of RTAs has been rising for over two decades, this has shaped new foundations for the functioning of the world economic order. Difficult to achieve aims, adopted at the Doha Round by WTO members, caused reconciling the defensive and offensive interests of particular groups almost impossible to accomplish. As a consequence, they often missed deadlines and the progress in the negotiations was inadequate, with the culmination in 2008 in Geneva. MC in Bali was hailed as a great success but we should also be aware that by adopting the TFA, the members deferred numerous other important issues. The total result of these actions is that the organization is currently slightly left out with regard to trade issues. The presently negotiated MRTAs, especially TPP, TTIP and RCEP will certainly reconstruct the multilateral trading system.

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<sup>52</sup> Moreover – the Pacific Alliance in Latin America among Chile, Colombia, Mexico and Peru or the Tripartite Agreement between parties to COMESA, EAC and SADC in Africa.

<sup>53</sup> Facts and figures, [https://www.wto.org/english/tratop\\_e/region\\_e/regfac\\_e.htm](https://www.wto.org/english/tratop_e/region_e/regfac_e.htm) [accessed: 15.06.2016].

<sup>54</sup> As an example, Brunei, Malaysia, Singapore, Vietnam, Australia and New Zealand take part in RCEP as well as in TPP.

<sup>55</sup> „EXPAND their partnership by encouraging the accession of other States or separate customs territories in order to further enhance regional economic integration and create the foundation of a Free Trade Area of the Asia Pacific”. See more: <https://ustr.gov/sites/default/files/TPP-Final-Text-Preamble.pdf> [accessed: 15.12.2015]

In spite of the fact that, in accordance with the principles adopted in these agreements<sup>56</sup>, RTAs are not supposed to violate the WTO rules, on the contrary, they are to create opportunities to implement rules and deepen cooperation within the organization, it may be safely assumed that they, particularly MRTAs, will affect not only the structure of the international trade but also the progress of negotiations in the ongoing Doha Development Round.

This problem is well illustrated by using the trade in goods between the EU and the USA as an example. It dropped by nearly a half in 1990–2012 (from 22% to 11.5%) while trade between the EU, as well as the USA, and other countries e.g. China, increased substantially. Owing to the fact that the European Union is the biggest trade partner of China, the implementation of TTIP may negatively affect the business relations between them. These fears have their source in the fact that we have already been able to witness the effects of trade creation and trade diversion within free trade areas. Due to the reduction or elimination of barriers in trade between the EU and the USA (TTIP), we may expect higher levels of reciprocal trade flows and the volume of bilateral trade (the effect of trade creation). Simultaneously, this process will be accompanied by another one, this time of a negative nature i.e. trade diversion. This will result in the situation in which the import, previously from third countries, will be replaced by trade within the new group. This effect may relate directly to the main trade partners of the USA, as well as the EU. As a result of implementing TTIP, trade in goods between the EU, as well as the USA, and other countries may be decreased and be replaced with bilateral trade within the new free trade area. To sum up, as a consequence of intensifying trade between partners constituting RTAs, there may be shifts in trade flows and the costs of these shifts may have to be paid by countries outside the agreements, in the above example that would be e.g. China, Turkey or Mexico<sup>57</sup> Therefore, diverging trade towards partners which are less effective economically, as are the provisions of such agreements, may lead to a decrease of prosperity at a global scale.<sup>58</sup>

As regards the influence of new trade agreements on the further functioning of the WTO, there are two possible scenarios. The first, in which countries that managed to successfully negotiate terms facilitating trade under this agreement, may not be interested in accelerating the Development Round negotiations since they will obtain reciprocal trade benefits somewhere else. For this reason, they are

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<sup>56</sup> TPP Preamble, see more: <https://ustr.gov/sites/default/files/TPP-Final-Text-Preamble.pdf> [accessed: 15.12.2015].

<sup>57</sup> On the other hand, the EU negotiates a number of other bilateral agreements not with developed countries but also with emerging markets. It mainly concerns negotiations between the EU and China on strengthening cooperation, as well as countries of South-East Asian Nations (ASEAN). Cf. E. Majchrowska, *Wpływ członkostwa w WTO na handel zagraniczny Chin. Implikacje dla gospodarki światowej*, op. cit., p. 215.

<sup>58</sup> J. Bhagwati, *Termites in the Trading System. How Preferential Agreements Undermine Free Trade*, New York 2008, pp. 49–50.

frequently referred to as “termites in the trading system”.<sup>59</sup> On the other hand, the already negotiated arrangements facilitating trade within particular RTAs, may be directly transferred to WTO negotiations, which in turn may dynamise the ongoing talks and speed up the conclusion of the current negotiations round. It would constitute an intermediate step on the way to working out the multilateral agreement. The situation is bound to be clear soon due to the concluded TPP talks as well as negotiations on other agreements which are also planned to be successfully finalized in the near future.

Thus, can the emergence of new, and in particular large trading blocs, be treated as a threat to the multilateral trading system? Is there a risk of dividing the world economy into regional trade blocs, which will, in the indefinite future, eventually leave the WTO behind? In order to answer this question, we need to pay special attention to the fact that the mounting number of RTAs is rather an effect of the problems which the WTO is facing, not the source. It mainly concerns the long-standing negotiations deadlock, partially resolved by the Bali Package. The WTO has not updated sufficiently its rules since the inception and countries search for new solutions so as to intensify trade.<sup>60</sup>

It should, however, be stressed that the common, characteristic feature of the newly created trade blocs of critical importance i.e. the abovementioned TPP or TTIP, is the fact that they do not contain any large emerging economies such as China or Brazil. On the other hand, as regards the also important RCEP, this initiative involves neither the United States nor the European Union. Consequently, there is no serious agreement which would involve the EU and the USA as well one or more of the big emerging economies. This translates into the inability of these states to conclude negotiations within the WTO.<sup>61</sup>

In 2009, the then the Director-General of the WTO Pascal Lamy, presenting to the General Council his vision of WTO for the following years, and aware of the threats to the WTO occurring in the global economy said that

the WTO, as a living organism, should continue to improve its capacity to rapidly react to global challenges, as we are seeing in the current crisis, and to contribute to devising solutions to those challenges. The reinforcement of the multilateral trading system, in particular through the conclusion of the Doha Round, should be our guiding light. In the constellation of global governance, let’s work together to see the WTO star shining ever brighter.

He also noted that main goal for the WTO for the following years should be to “strengthen the role of the WTO as the global trade body”. The greatest benefit of

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<sup>59</sup> *Ibidem*.

<sup>60</sup> WTO’s problems are much deeper – they concern new technologies which transform the international trade as well as the emergence of new economic superpowers. An effectively operating organization of a global character should, however, be a priority for every participant of the global trade.

<sup>61</sup> B. Hoekman, *The WTO won’t be killed by all these regional trade*, June 15<sup>th</sup> 2014, <http://europesworld.org> [accessed: 22.06.2016].

positively concluding the Doha Round will be “certainty, predictability and stability it will bring to global trade”.<sup>62</sup> He also stressed that the rules of the multilateral trade within the WTO guard against protectionism and provide unique security policy to its members.<sup>63</sup>

Regardless of the problems that the WTO has been forced to withstand in the recent years, it would be inappropriate to treat the multilateral trading system within the WTO as completely insignificant. As mentioned earlier, increasingly more countries are joining the WTO, its system of dispute settlement operates effectively, its fundamental rules are widely honored. The query is whether the organization maintains its significance as a main forum for promoting further liberalization or maybe it should change itself into a body functioning principally as a trade law court – an arbiter of trade relations between member countries – and a supervisor of regional trade.<sup>64</sup>

## Summary

The goal of the World Trade Organization is liberalization of trade flows as well as maintaining a harmonized, international trading system. These activities are to contribute to building prosperity and economic stability of countries from different regions, which is also in line with the principal aims of the Doha Development Round.

We may come across opinions that the WTO does not live up to the expectations of the international community, and that the effectively carried out process of trade liberalization has not been a match to the current situation in the world market. Beyond a shadow of a doubt, the last years have not been the most successful period for the WTO and its position is currently much weaker than at the end of the last century. Still, it seems that a gradual creation of an open system of global trade based on common rules, having over 160 countries as its members, is a great achievement. Therefore, the contribution to the development of the world economy made by the organization cannot be belittled.

The system created under the WTO framework is not perfect; still, it is easy to imagine how unpredictable the world economy would be without it. However, the impasse in negotiations lasting for a long time has led to an increase of concluded bilateral and regional agreements, which has weakened the organization’s position. Trade regionalism has become the most frequently chosen way of regulat-

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<sup>62</sup> WTO: 2009 News Items, P. Lamy: “*Strengthening the WTO as the global trade body*”, 29 April 2009.

<sup>63</sup> WTO: 2009 News Items, P. Lamy: “*The Doha Development Agenda is the best stimulus package*”, 14 April 2009.

<sup>64</sup> A. Subramanian, M. Kessler, *The Hyperglobalization of Trade and Its Future*, WP 13 – 6, JULY 2013, Peterson Institute for International Economics, p. 28, <http://www.iie.com/publications/wp/wp13-6.pdf> [accessed: 15.05.2016].

ing economic cooperation. At present, virtually every country concludes regional trade agreements with its partners in the form of free trade areas or customs unions. It certainly is a viable alternative to multilateral agreements until the crisis is resolved. The ambitious goals of the negotiations may, from the standpoints of both the developed and developing countries, be easier to achieve in negotiations between two or several parties rather than within an organization composed of so many members representing different interests.

Regional trade agreements may well become the future foundation for bigger associations; there is evidence to suggest that the future trade will be divided into separate, regional blocs. The potential problem may be a shift of priorities and interest of some countries to regional agreements exclusively since it can prolong the negotiations process and strike at the multilateral trading system. The interest in concluding multilateral negotiations may completely disappear if the biggest players, i.e. the USA, the EU, China or India become connected by bilateral or plurilateral agreements.

It is difficult to predict the developments of this situation and whether RTAs are going to be complementary to the multilateral system and support the World Trade Organization, leading it to a successful conclusion of the Doha Round by transferring and adopting the bilateral arrangements, or contribute to the prolongation of the negotiation stalemate. The only thing that is certain is the fact that the international trade politics in the following decade will be very interesting. However, in the situation when players in the global economy are intertwined more than ever, it is even more difficult to imagine the world economy without the WTO.

A positive aspect, sending the signal that the WTO remains an important forum for shaping the rules of the international trade in 21<sup>st</sup> century, certainly is the agreement adopted during the ninth Ministerial Conference. Tangible, clear benefits for the members of the organization from the implementation of the TFA may serve the purpose of reaffirming the relevance of the organization. It is important to remember that the multilateral trading system is still the best defense against protectionism and is a great contributing factor to the economic growth. The positive outcome of implementation of TFA or the agreement on rules limiting the trade-distorting export subsidies on agricultural products, constitute a solid foundation for the support of the multilateral trading system and resuming negotiations of the Development Round. These achievement, though not as decisive as the original assumptions of the round in question, constitute an important avenue for reinforcing and reviving the system, which will reaffirm that the WTO can, in fact, function with over 160 members, whose participation reflects an increasing importance of the world economy.



## **20 lat WTO – efekty działalności i perspektywy funkcjonowania na tle proliferacji porozumień regionalnych w handlu światowym**

Obchodzona w ubiegłym roku 20. rocznica funkcjonowania Światowej Organizacji Handlu (WTO) skłania do refleksji na temat efektów jej działalności, szczególnie w aspekcie następstw światowego kryzysu gospodarczego 2008+, jak również nasuwa pytanie o dalsze losy organizacji pełniącej funkcję nadrzędnego forum negocjacyjnego w handlu światowym. Można spotkać się z opiniami, że Światowa Organizacja Handlu nie spełniła oczekiwań społeczności międzynarodowej, a skutecznie realizowany proces liberalizacji handlu nie sprostał bieżącej sytuacji na rynku światowym. Bez wątpienia ostatnie lata nie były najlepszym okresem funkcjonowania WTO, a jej pozycja jest dziś zdecydowanie słabsza niż jeszcze w końcu ubiegłego stulecia. Mimo to wydaje się, że sukcesywne tworzenie otwartego systemu światowego handlu, opartego na wspólnych zasadach, które swoim członkostwem potwierdza już ponad 160 krajów reprezentujących 98% handlu światowego, jest jednak ogromnym osiągnięciem. Nie można zatem umniejszać wkładu, jaki został wniesiony przez organizację w rozwój gospodarki światowej, szczególnie w kwestii walki z protekcyjnym oraz napędzania wzrostu gospodarczego. Jednak trwający od długiego czasu impas w negocjacjach wielostronnych doprowadził do wzrostu liczby zawieranych umów regionalnych, co osłabiło istotnie pozycję organizacji. Regionalne porozumienia handlowe stają się fundamentem szerszych układów i wiele wskazuje na to, że handel światowy będzie podzielony na odrębne, regionalne bloki. Problemem może jednak okazać się przesunięcie punktu ciężkości i zainteresowanie niektórych krajów wyłącznie porozumieniami regionalnymi, gdyż może to istotnie opóźnić proces negocjacji i uderzyć w wielostronny system handlowy.

**Słowa kluczowe:** WTO, RTAs, handel światowy, wielostronny system handlowy

## **20 Years of WTO – Effects of Its Activity and Perspectives of Its Functioning in the Context of Proliferation of Regional Agreements in the World Trade**

The 20th anniversary of the World Trade Organization (WTO) activity celebrated in 2015 has provoked to the analysis and summary of effects of its activity within this period, especially as far as the consequences of the world economic crisis 2008+ are concerned. It is also important in the context of the WTO's role as the main negotiation forum in the world trade. We may come across opinions that the WTO does not live up to the expectations of the international community, and that the effectively carried out process of trade liberalization has not been a match to the current situation in the world market. Beyond a shadow of a doubt, the last decade has not been the most successful period for the WTO and its position is currently much weaker than at the end of the last century. Still, it seems that a gradual creation of an open system of the global trade, based on common rules, having over 160 countries as its members, is a great achievement. Therefore, the contribution to the development of the world economy made by the organization cannot be belittled. The impasse in negotiations lasting for a long time has led to an increase of concluded bilateral and regional agreements, which has weakened the organization's position. Regional trade agreements may well become the future foundation for bigger associations; there is evidence to suggest that the future trade will be divided into separate, regional blocs. The potential problem may be a shift of priorities and interests of some countries to regional agreements exclusively, since it can prolong the negotiations process and strike at the multilateral trading system. The authentic danger is that RTAs may discredit and weaken the WTO's central position in the world trade.

**Key words:** WTO, RTAs, world trade, multilateral trading system