



Concept Note

MULTILATERALISM UNDER STRAIN: CONSENSUS, DISPUTE SETTLEMENT, AND THE STAKES OF MC14

I. THE 14TH MINISTERIAL CONFERENCE

The 14th WTO Ministerial Conference (MC14) convenes in Yaoundé, Cameroon from 26–29 March 2026, for the first time on African soil.¹ The conference proceeds under the Director-General's *Revised Roadmap to Yaoundé* (Job/GC/127/Rev.2), which enshrines a '*Geneva First*' principle: only issues with genuine convergence among members are to be referred to ministers for adoption; substantive work must be concluded in advance in Geneva.²

The agenda that has emerged through the DG's *Revised Roadmap to Yaoundé* and months of preparatory consultations encompasses the following substantive clusters: **(i)** WTO institutional reform, including decision-making, Special & Differential Treatment (S&DT), and level-playing-field concerns; **(ii)** agriculture, including the Bamako Ministerial Declaration on Cotton and the C-4 Group mandate; **(iii)** fisheries subsidies Phase 2; **(iv)** the e-Commerce moratorium on customs duties for electronic transmissions; **(v)** incorporation of the Investment Facilitation for Development (IFD) Agreement into Annex 4 of the Marrakesh Agreement; **(vi)** development and LDC-specific outcomes, and **(vii)** dispute settlement reform.³

II. CONSENSUS

The WTO is, at its foundation, a rules-based multilateral trading system, one whose legitimacy rests on the equal participation of all 166 members in the formation and enforcement of its rules. That participation is governed, at every level, by the practice of decision-making by consensus.⁴ The WTO Agreement formally permits recourse to voting where consensus cannot

¹ WTO, '14th WTO Ministerial Conference', MC14 Homepage (2026): wto.org/mc14

² WTO Secretariat, 'Revised Roadmap to Yaoundé — MC14 Schedule of Sessions', Job/GC/127/Rev.2 (February 2026); see also WTO News, 'Members discuss next steps on WTO reform ahead of MC14' (3 February 2026): wto.org/news

³ WTO News, 'WTO members conclude month-long reform discussions in Geneva' (5 March 2026): wto.org/news.

⁴ Marrakesh Agreement Establishing the World Trade Organization (1994), Article IX:1 and fn 1: 'The WTO shall continue the practice of decision-making by consensus followed under GATT 1947.'



be reached; however, in practice this option has been almost entirely avoided, as members continue to treat consensus as the default and politically legitimate mode of decision-making.⁵

Consensus Blocking

The past three years have produced a series of high-profile consensus failures that have placed the norm itself at the centre of the reform debate. First, the IFD Agreement: negotiated over three years by 126 members, including 90 developing countries, it cannot be incorporated into Annex 4 of the WTO Agreement because Article X:9 requires consensus for such action. India blocked the decision at MC13 in Abu Dhabi (February 2024) and at every subsequent General Council meeting through February 2025⁶, joined by South Africa and Türkiye⁷; India's objections, on its own account, are rooted in unrelated grievances about the pace of Doha-era negotiations. In February 2025, a parallel blocking prevented 66 members from incorporating the Agreement on Electronic Commerce into Annex 4, with Pakistan, Bangladesh, Brazil and Indonesia joining the objectors.⁸ Second, agriculture: despite nine distinct member submissions and a new Chair's draft text, the negotiating group on agriculture entered MC14 without convergence, the fourth consecutive ministerial at which this is the case.⁹

Third, and most structurally damaging, is the Appellate Body (AB) appointments crisis. The United States has, since 2017, exploited the positive-consensus requirement embedded in the DSB's appointment procedures to block the initiation of any selection process for AB members. At the DSB meeting of 25 April 2025, Colombia, speaking on behalf of 130 members, tabled for the *86th consecutive time* a draft decision to initiate appointments. It was blocked once again.¹⁰ This is a different operation of consensus from its Article IX:1 form: the US does not exercise a formal veto under the WTO Agreement, but exploits the DSB's procedural requirement of affirmative agreement to commence a selection process, turning an administrative procedure into a structural lock.

⁵Peter Van den Bossche, In Search of Consensus on WTO Consensus Decision Making, WORLD TRADE INSTITUTE <https://www.wti.org/media/filer_public/fd/41/fd415929-b76a-4b52-9b9f-fc47a78244aa/in_search_of_consensus_on_wto_consensus_decision-making_p_van_den_bossche.pdf>

⁶ WT/MIN(24)/29, India's Ministerial Statement at MC13 (1 March 2024).

⁷ WT/GC/M/212, paras 4.9–4.10

⁸ https://icrier.org/pdf/Working_Paper_426.pdf.

⁹ WTO News, 'Chair of agriculture talks circulates revised draft text, as MC14 outline emerges' (6 March 2026): [wto.org \(news\)](https://www.wto.org/news).

¹⁰ Peter Van den Bossche, In Search of Consensus on WTO Consensus Decision-Making, WTI Working Paper No. 7/2025 (World Trade Institute, University of Bern, 2025), pp. 4: [wti.org \(full paper\)](https://www.wti.org/full-paper)



Consensus in Day-to-Day Decision Making

Consensus plays a central role not only in ministerial negotiations but also in the WTO's routine institutional functioning and committee work, allowing members to build broad-based legitimacy and collective ownership over decisions. However, in practice the same norm can slow or constrain substantive outcomes. Much of the system's negotiation occurs informally through so-called 'Green Room' meetings, which are small gatherings of selected delegations convened by the Director-General or ministerial chairs to broker compromise before matters reach formal bodies¹¹. Formal meetings then typically confirm outcomes reached in these settings. However, where such informal understandings do not command broader acceptance, formal consensus fails. At the committee level, consensus has similarly limited substantive outcomes. For example, proposals within the Committee on Trade and Environment (CTE) to expand WTO provisions for trade measures taken pursuant to Multilateral Environmental Agreements have repeatedly failed to attract consensus support, leaving the committee largely confined to reporting and work programmes.¹² Likewise, the Committee on Regional Trade Agreements (CRTA), established to examine the consistency of notified regional trade agreements with WTO rules, has been unable to complete a single examination report since its creation in 1995 due to the absence of consensus among members.¹³

The DSU's Negative Consensus Innovation and Its Limits

The Dispute Settlement Understanding (DSU), introduced a deliberate structural departure from GATT practice: *negative consensus* (or reverse consensus) for three specific actions, establishing panels, adopting panel and Appellate Body reports, and authorising retaliation. At each of these stages, the relevant DSB decision is adopted automatically unless *all* members actively oppose it. This was the DSU's defining innovation: it ended the GATT-era veto that allowed losing parties to prevent adoption of adverse rulings.¹⁴ However, with the AB non-functional, Article 17.7 of the DSU creates a parallel paralysis: where an appeal is formally

¹¹ WTO, *Understanding the WTO* (Chapter 7, "Whose WTO Is It Anyway?"): [wto.org](https://www.wto.org) (PDF).

¹² WTO, *Trade and Environment — Ministerial Conference Report* (Singapore 1996) → [wto.org](https://www.wto.org)

¹³ WTO, *Regional Trade Agreements — Historical Background*: [wto.org](https://www.wto.org).

¹⁴ Understanding on Rules and Procedures Governing the Settlement of Disputes (Hereinafter "DSU"), Annex 2, Marrakesh Agreement (1994), Articles 16.4, 17.14 and 22.6.

pending, the underlying panel report cannot be adopted. Over 20 appeals since December 2019 have been filed into this procedural void.¹⁵

The MPIA: A Workaround Anchored in Article 25 DSU

In April 2020, a coalition of 18 founding members established the Multi-Party Interim Appeal Arbitration Arrangement (MPIA), an alternative appellate mechanism grounded in Article 25 of the DSU (arbitration), designed to mirror the substantive and procedural architecture of AB review. The MPIA now counts 31 participating members.¹⁶ It has produced two awards: the EU–Colombia frozen fries dispute (December 2022) and the EU–China intellectual property dispute (July 2025).¹⁷ The arrangement has demonstrated that functional appellate review is achievable even without the AB, but its reach is structurally limited. Scholars have characterised the MPIA as a *'laboratory to explore and test new ways of making WTO dispute settlement more efficient'*.¹⁸ An experimental reform by practice rather than formal DSU amendment, but have been equally clear that it is a temporary workaround, not a structural resolution.¹⁹

III. QUESTIONS FOR PANEL DISCUSSION

The following questions are proposed to frame the panel's discussion, with each intended to surface the structural tensions identified above:

Q1 When a single member can block an agreement on grounds unrelated to the agreement itself, does consensus still function as a legitimacy safeguard?

Q2 If consensus-based decision making can also affect the functioning of dispute settlement institutions, what reforms within the existing DSU framework could realistically help restore confidence in the system following the Appellate Body impasse?

¹⁵ DSU Article 17.7.

¹⁶ WTO, 'Multi-Party Interim Appeal Arbitration Arrangement (MPIA)' — official MPIA page listing all participating members and procedural rules: wto.org/mpia.

¹⁷ WTO News, 'Arbitrators issue award in EU–China intellectual property dispute under MPIA' (21 July 2025) — the second completed MPIA award (DS611): wto.org/news.

¹⁸ Joost Pauwelyn, "The WTO's Multi-Party Interim Appeal Arbitration Arrangement (MPIA): what's new?" World Trade Review 22 (2023) 693–701.

¹⁹ WTO DSB Meeting Summary, DSB/28 (18 December 2023): wto.org/dsb/meeting



Q3. In the absence of a fully functioning multilateral appellate mechanism, the MPIA has emerged as an interim alternative for some members. Does this development risk creating a two-tier dispute settlement system within the WTO?

Q4. Could the use of voting provide a legitimate institutional workaround when a small number of members repeatedly block decisions supported by a broad majority?

Q5 Against this backdrop of institutional and decision-making challenges, what would constitute a meaningful and realistic outcome at MC14 in Yaoundé?