WTO Reform: Assessment of the Facilitator's Communication and Process Ahead of the 4 November 2025 Plenary

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An Informal Note Reviewing the Reform Tracks and Process in Advance of the 4 November Plenary, 2 November 2025

Abstract

This note provides an analytical assessment of the Facilitator's Communication and process ahead of the WTO reform plenary held on 4 November 2025. It highlights the growing procedural opacity surrounding the reform process, characterised by informal, facilitator-led configurations that lack clear mandates, participation criteria, or official records of discussions. These methods have blurred the lines between Member-driven deliberation and Secretariat-managed processes, creating uncertainty over accountability, legitimacy and inclusiveness.

Substantively, the Facilitator's synthesis elevates certain reform tracks, notably decision-making and level playing field, as forward-looking agendas, while confining the Development and S&DT track to a diagnostic or exploratory stage. This imbalance risks entrenching asymmetries rather than addressing them. By conflating S&DT with the broader development mandate, the Communication effectively narrows the systemic development agenda of the Marrakesh Agreement to a limited discussion of differentiation and eligibility.

Read together, the procedural and substantive dynamics reveal a process that is fragmented, imbalanced and at risk of being shaped by informal interpretations rather than by Member-driven decisions. The note calls for restoring transparency, reaffirming the primacy of consensus and re-centring development as the organising principle of WTO reform.

Introduction

This informal note provides an analytical review of the *Communication from H.E. Mr Petter Ølberg, Facilitator on WTO Reform*, dated 31 October 2025, convening the 4 November plenary.[1] It assesses the procedural and substantive implications of the Facilitator's talking points and small-group summaries on (i) decision-making, (ii) development and S&DT, and (iii) the level playing field and balanced trade.

The plenary marks the first opportunity for the full membership to engage formally with the Facilitator's summary of discussions held in the smaller configurations in the lead-up to MC14.

The meeting is not intended to negotiate outcomes but to gauge Members' reactions to the Facilitator's framing of the reform agenda and to test whether there is sufficient comfort to proceed along the current structure. Specifically, the plenary seeks to:

- validate or contest the Facilitator's interpretation of progress and balance across the scoping areas (decision-making, development and S&DT, level playing field and balanced trade)
- obtain feedback on the proposed sequencing of "checkpoints" leading to a December report under the Facilitator's responsibility; and

[1] This version is a streamlined public adaptation of analytical notes previously shared with developing country delegations in advance of the 4 November plenary. It has been finalised following the meeting to provide a consolidated and accessible record of key analytical points for broader policy reference.

- invite Members to indicate what guidance should inform the next phase of the reform process.

The structure of the process means that much of the discussion to date has taken place in informal, facilitator-led configurations, with no agreed records. As a result, the 4 November plenary marks the first opportunity for Members to collectively review a process that has so far relied largely on a single individual's interpretation of Member views across different formats.

In practice, the plenary will serve as a political test of whether Members are prepared to endorse, implicitly or explicitly, the Facilitator's synthesis and the process set out in the Revised "Road to Yaoundé".[2] For developing countries, it will be an important occasion to correct the record where positions have been misrepresented, to highlight substantive imbalances across the reform tracks, and to reaffirm that the process must remain inclusive, transparent and Member-driven.

It will also allow Members to clarify how the Facilitator's process relates to the Revised "Road to Yaoundé" and to reaffirm that any new steps must remain under the General Council's oversight in line with the MC12 mandate on WTO reform.[3]

The analysis that follows is divided into two parts. Section A identifies the key process issues arising from the Facilitator's communication, including questions of timing, representation, transparency, and the interpretation of the consensus rule. Section B reviews the substantive issues, focusing on the framing of decision-making, development and S&DT, and the level-playing-field discussion relating to the ASCM. The note aims to assist developing-country delegations in preparing their interventions for the 4 November plenary and in shaping coordinated positions for the period leading to MC14.

A. Institutional and Procedural Observations on the Reform Process

1. Timing and insufficient notice

The Facilitator's communication was circulated on Friday, 31 October, with the plenary scheduled for Tuesday, 4 November. This allowed Members effectively one working day to review nearly twelve pages of material, assess the breadth of proposed procedural and substantive issues, and consult with their capitals. The Communication's request that delegations "refrain from restating well-known positions" is therefore unrealistic given the limited time for analysis and coordination.

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[2] World Trade Organization, Trade Negotiations Committee. "Revised Road to Yaoundé MC14: Possible Modalities, Substance and Way Forward." Communication JOB/TNC/127/Rev.1, October 7, 2025, Geneva.

[3] "We acknowledge the need to take advantage of available opportunities, address the challenges that the WTO is facing, and ensure the WTO's proper functioning. We commit to work towards the necessary reform of the WTO. While reaffirming the foundational principles of the WTO, we envision reforms to improve all its functions. The work shall be Member-driven, open, transparent, inclusive, and must address the interests of all Members, including development issues. The General Council and its subsidiary bodies will conduct the work, review progress, and consider decisions, as appropriate, to be submitted to the next Ministerial Conference." World Trade Organization, Ministerial Conference Twelfth Session. MC12 Outcome Document, adopted 17 June 2022, WT/MIN(22)/24, Geneva, para. 3.

2. Lack of clarity on representation

"Approximately 20 delegations — broadly representative of the membership… composition is not fixed; it will continue to evolve, including through even smaller, more focused configurations" (pp. 2, 7, 10).

The criteria for participation remain undefined, and the notion of "evolving composition" allows for ad hoc inclusion or exclusion. This raises concerns regarding balance, representativeness, and accountability. Establishing transparent parameters for participation and rotation, together with circulation of factual summaries from these meetings, would strengthen confidence in the process and reinforce institutional legitimacy.

3. No official record of discussions

"No official record of the discussions, in order to encourage open, candid, and free-flowing exchanges" (pp. 2, 7, 10).

The absence of agreed factual summaries allows interpretive discretion over Member views and undermines transparency. In practice, this means that Members must rely on a single individual's interpretation of what different groups have expressed across multiple configurations. Several developing country delegations have also indicated that their statements in these meetings were not accurately or fully reflected in the Facilitator's subsequent summaries. Past experiences of developing countries with undocumented processes have shown that such approaches rarely produce transparent or legitimate outcomes. Circulation of neutral summaries, agreed by participants before wider dissemination, would reinforce accuracy, transparency, and accountability.

4. Facilitator's "own responsibility" report

"Whether I, as facilitator, should consider issuing a report under my own responsibility in December" (p. 4).

A "personal" or "own-responsibility" report risks creating an unverified record of consensus. Without Member review, such a report would allow the Facilitator to draw conclusions, prioritise certain positions, or imply convergence where none exists. This would contradict established WTO practices and the procedural principles governing the role of chairpersons. The Facilitator's role is not anchored in any established rules of procedure, which creates institutional ambiguity regarding the scope and authority of this process.

The 2002 Statement by the Chair of the General Council, endorsed by the Trade Negotiations Committee, provides clear guidance that "Chairpersons should be impartial and objective… In their regular reporting… Chairpersons should reflect consensus, or where this is not possible, different positions on issues." Any report prepared "under the Facilitator's own responsibility" should therefore be reviewed by Members prior to circulation to the General Council, should clearly distinguish between Member statements and the Facilitator's synthesis, and should reflect divergences rather than reconciling them through interpretive language.

It also remains unclear what the status of such a report would be once issued. For instance, the *Revised Road to Yaoundé* sets December 2025 as the indicative cut-off for identifying issues to be taken forward to MC14, stipulating that only those showing "real convergence" should be transmitted. Yet the status of that document itself remains uncertain. Issued by the Director-General in her capacity as Chair of the Trade Negotiations Committee, it has not been formally adopted or endorsed by the General Council. Treating it as an agreed roadmap would therefore pre-judge Members' prerogative to determine how the MC14 preparatory process should be structured.

Under Articles IV:1–2 and IX:1 of the Marrakesh Agreement, the Ministerial Conference is the highest decision-making body of the WTO, and the General Council performs its functions in the intervals between Ministerial meetings. In practice, any document or proposal intended for Ministerial consideration must first be reviewed and agreed by the General Council, acting by consensus unless Members decide otherwise.

Even if a report were issued under the Facilitator's "own responsibility," it would carry no institutional standing independent of the General Council. The Facilitator is accountable to the General Council and derives his authority solely from it. Consequently, he cannot transmit any report, summary, or synthesis to the Ministerial Conference without the Council's explicit approval. Any such transmission would require a prior General Council decision taken by consensus.

Circulating an unendorsed report as an input to MC14 would therefore pre-empt Members' right to determine which materials are formally placed before Ministers and could create the perception of negotiated outcomes where none exist. Deviation from these procedures would introduce value judgments inconsistent with the WTO's intergovernmental and Member-driven character.

5. Futility and fragmentation of the process

"Even smaller, more focused configurations… transparency plenary to brief the wider membership" (pp. 2, 6, 10, 12).

The reform process has become circular and fragmented. Issues are discussed in small groups, then referred to even smaller formats, and later brought back to plenary for non-attributed updates. This structure has consumed considerable time without producing clarity or convergence. The configuration of successive small-group meetings closely resembles the "green-room" format that many Members have historically opposed because of its exclusivity, limited transparency, and weak institutional accountability. Streamlining the structure into a single inclusive format, supported by transparent documentation of discussions, would improve efficiency and restore Member confidence in the process.

6. Sequencing without mandate

"Five perspectives on how we could organize… the idea of having structured 'checkpoints' on the road to MC14" (pp. 3–4).

The proposal effectively sets a reform roadmap and reporting schedule without GC approval. This predetermines pace and content before Members have agreed on scope.

Any future structure, timeline, or reporting obligation should be subject to General Council review and adoption by consensus to maintain procedural legitimacy.

7. Limited value of G20 inputs for WTO reform

"Many recognize that such exchanges [in the G20] can inform and enrich our work here in Geneva" (Facilitator's Communication, p. 2).

The G20 Trade and Investment Ministerial Statement of 10 October 2025 offers no substantive outcomes on WTO reform. Paragraph 7 merely "recognises the need for comprehensive reform" and notes "diverse perspectives among G20 Members" without identifying any areas of convergence or commitment to action.

Given this, it is unclear how G20 deliberations that resulted in a skeletal and non-committal statement can meaningfully "enrich" the Geneva process. Moreover, there is a high likelihood that most of the G20 Members are among the 20 or so delegations participating in the small group reform format, which further consolidates influence rather than widening participation.

8. Erosion of the consensus principle

"Consensus is not the same as unanimity… raising the political cost of blocking… exploring variable geometry and opt-in/opt-out frameworks" (pp. 5–6).

The Communication introduces ideas that could weaken the consensus rule established under Article IX:1 of the Marrakesh Agreement, which provides that *"the WTO shall continue the practice of decision-making by consensus followed under GATT 1947."* Under this provision, a decision is deemed adopted by consensus *"if no Member, present at the meeting when the decision is taken, formally objects to the proposed decision."* Consensus is therefore a foundational procedural principle, not a negotiable practice. Any suggestion that consensus may be relaxed, reinterpreted, or replaced by "variable geometry" frameworks would require formal modification of the Marrakesh Agreement itself.

In accordance with Article X:1, any Member may initiate a proposal to amend the Marrakesh Agreement by submitting it formally to the Ministerial Conference. Once tabled, the Ministerial Conference must decide, by consensus, whether to submit the proposed amendment to Members for acceptance. Where consensus cannot be reached within the prescribed period, a two-thirds majority may decide to circulate the proposal for acceptance, but amendments to Article IX itself can only take effect upon acceptance by all Members under Article X:2. These provisions ensure that the consensus rule cannot be informally reinterpreted or procedurally diluted.

Moreover, under Articles IV:1 and IV:2, the Ministerial Conference is the highest decision-making body of the WTO, and the General Council conducts its functions between Ministerial meetings. Any proposal affecting decision-making procedures must therefore be tabled formally in the General Council for review before being transmitted to Ministers. Informal exchanges or facilitator summaries cannot alter or reinterpret these provisions.

The current reform discussion, by characterising consensus as a "veto" or "obstacle", risks legitimising informal reinterpretations of a core legal safeguard designed to ensure equality among Members. To maintain procedural integrity, it remains essential that consensus continues to serve as the cornerstone of WTO decision-making and that any proposal to modify or clarify its scope be tabled in writing under the procedures of Articles IX and X of the Marrakesh Agreement for consideration by the General Council or the Ministerial Conference.

These procedural risks are mirrored in the substantive debate on decision-making reform, where language about "variable geometry" and "raising the political cost of blocking" are examined further in *Section B.11*.

9. On the "Scoping" and its inconsistency with the Revised Road to Yaoundé

"We are not here to negotiate outcomes… Rather, what we are doing now is scoping — compiling a structured overview of the challenges in this area, each accompanied by a range of possible options for Ministerial consideration." (pp. 7–8, 10)

The Facilitator presents scoping as an open and exploratory conversation, but the *Revised Road to Yaoundé* defines it differently. Paragraph 3 of that document directs that "prior to MC14, Members' role is to formulate questions that serve to designate and delineate areas and issues for reform and put in place a Member-driven process," while Ministers at MC14 are expected to "endorse the scope of reform as well as modalities and timing." Scoping is therefore not a preliminary brainstorming exercise but the decisive phase that determines what

Ministers will be asked to endorse. Once such endorsement occurs, the reform track becomes politically locked in through ministerial guidance.

By contrast, the Facilitator's framing gives the impression that Members are merely mapping issues, when in fact the structure and purpose of the exercise have already been defined through the Director-General's roadmap. This discrepancy risks transforming what was expected to be a Member-driven scoping exercise into a Director-General-led agenda-setting process. The distinction is institutional and material, as it determines who defines the scope and ownership of the reform agenda.

Greater clarity is therefore required on how this Facilitator-led process fits within the framework set out in the *Revised Road to Yaoundé*, which was issued by the Director-General in her capacity as Chair of the Trade Negotiations Committee and has not been formally adopted or endorsed by the General Council. Treating it as an agreed roadmap would pre-judge Members' prerogative to determine how the MC14 preparatory process should be structured. The overlapping roles of the Facilitator, the DG/TNC Chair, the General Council Chair and the MC14 host government create institutional ambiguity that risks fragmenting accountability for how convergence is defined and communicated before MC14.

The *Revised Road to Yaoundé* also sets December 2025 as the cut-off date for deciding which issues proceed to MC14, leaving limited time for most Members, particularly those not involved in earlier small-group meetings, to analyse the material, consult their capitals and influence the emerging reform agenda. What is described as "exploratory scoping" is effectively a fast-tracked agenda-setting process designed to deliver pre-selected issues for ministerial endorsement. This sequencing risks turning the 4 November plenary into a validation exercise rather than a genuine opportunity for Members to shape the scope of reform.

The Facilitator's proposed sequencing of "checkpoints", additional small-group consultations and a December report illustrate how the reform process has evolved through informal practices and facilitator-led configurations that have not been formally endorsed by the General Council.

As mentioned, pursuant to paragraph 3 of the MC12 Outcome Document, Ministers committed to undertake the necessary reform of the WTO, instructing that the work be Member-driven, open, transparent and inclusive, and that it address the interests of all Members, including development issues. The Facilitator was subsequently appointed by the Chair of the General Council to assist Members in advancing this reform process. While the Facilitator was appointed under the General Council's authority in implementation of the MC12 mandate, the specific methods adopted for organising and reporting discussions remain informal in nature.

To maintain procedural integrity, any future activities, timelines or outputs should operate under General Council oversight, and any definition of reform scope should be agreed by Members through formal General Council processes rather than implied through facilitator summaries or informal consultations.

Collectively, these procedural shortcomings reveal a widening gap between the principles of transparency and Member-driven participation on which the reform mandate was established and the informal practices through which it is now being operationalised. The following section considers the substantive implications of this process for developing countries.

B. Substantive Issues

10. Key observation

The Facilitator characterises only the Development and S&DT track as a purely "scoping" exercise, explicitly stating that Members are "not here to negotiate outcomes or propose definitive solutions" and that the purpose is to "compile a structured overview of the challenges in this area" (p. 7). By contrast, the summaries of the Decision-Making and Level Playing Field discussions adopt a reform-oriented tone. In the Decision-Making section, the Facilitator reports that some Members "proposed clarifying the fallback to voting under Article IX" and "exploring variable geometry and flexible multilateralism," framing the task as "striking a fair balance between responsiveness and inclusiveness" (pp. 5–6). The Level Playing Field section similarly refers to Members "revisiting WTO subsidy disciplines, particularly the ASCM," and "exploring a structured Work Programme on industrial policy and level playing field" aimed at generating "options for Ministerial consideration" (pp. 10–11).

Read together, this synthesis presents these two areas as forward-moving reform tracks, while Development and S&DT are treated as diagnostic rather than action-oriented themes. Yet Development and the Level Playing Field address the same systemic question of how to balance flexibility and discipline in the multilateral trading system. A fair and balanced trading system requires attention to structural asymmetries in productive capacity, technology access and policy space. Development creates the conditions for genuine competition, and any level-playing-field discussion should reinforce these objectives.

The current framing risks creating parallel Ministerial conversations on overlapping issues, with the Level Playing Field discussion advancing concrete deliverables while the Development discussion remains exploratory. This would privilege enforcement and discipline over flexibility and equity. Clarification is needed on how these tracks will be coordinated within a coherent framework so that both proceed in tandem. Any work on subsidy disciplines or industrial policy should be matched by a parallel work programme on Development that focuses on restoring policy space, promoting technology transfer and enabling structural transformation.

11. Decision-making

The procedural concerns outlined in *Section A.8* also arise in the substantive discussion on decision-making reform. The Facilitator's summary frames consensus as a constraint on efficiency, raising comparable risks of reinterpretation under Article IX of the Marrakesh Agreement.

The summary reflects divergent Member views but does not clarify that consensus is a foundational procedural principle under the Marrakesh Agreement, not a discretionary practice. The Communication reports that some Members view consensus as "not the same as unanimity" and that the "current interpretation of consensus has at times contributed to paralysis." Others are said to favour "clarifying the fallback to voting under Article IX of the Marrakesh Agreement" and "exploring variable geometry and flexible multilateralism" (pp. 5–6). These formulations shift the discussion from preserving consensus as a legal principle to treating it as an efficiency constraint.

Article IX:1 is explicit: *"The WTO shall continue the practice of decision-making by consensus followed under GATT 1947. Except as otherwise provided, where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting."* This establishes a presumption of consensus as the default method of decision-making. Voting is the exception, not a parallel mechanism. Article IX therefore functions as a procedural guarantee of sovereign equality. Framing consensus as an obstacle to "responsiveness" or as a "de facto veto" (p. 5) risks normalising political pressure to dilute that principle.

The reference to "differentiation" in decision-making and the suggestion that "not all decisions may require the same threshold" (p. 5) also raise concerns. Article IX does not permit differentiated thresholds across issue areas except where specifically provided, such as in waivers (Article IX:3-4) or amendments (Article X). These are explicit treaty-based exceptions that cannot be extended by practice or reinterpretation.

The proposal to apply a "Pareto improvement principle, where Members agree not to block outcomes that do not harm their vital interests" (p. 5) has no basis in WTO law or prior practice. It would recast consensus from an equal right of participation into a conditional right subject to others' judgement. Similarly, the idea of "raising the political cost of blocking" through informal accountability mechanisms (p. 5) risks undermining the entitlement under Article IX to withhold consent without penalty or reprisal.

Read together, the procedural and substantive strands of the reform debate reveal a gradual weakening of the consensus principle, first through informal process, and then through reinterpretation of its meaning under WTO law.

12. Development and S&DT

Treating Development and S&DT as a single issue risks obscuring their distinct objectives and legal foundations. Development is a systemic principle of the WTO, while S&DT is a specific mechanism to operationalise it.

The Marrakesh Agreement places development at the heart of the multilateral trading system. Its Preamble commits Members to "raising standards of living," "ensuring full employment," and "expanding the production of and trade in goods and services," while "allowing for the optimal use of the world's resources in accordance with the objective of sustainable development." It further directs that these aims be pursued "in accordance with the needs and concerns at different levels of economic development," and calls for "positive efforts… to ensure that developing countries, and especially the least-developed among them, secure a share in the growth in international trade commensurate with their economic development needs."

This establishes development as a systemic principle, not a subsidiary theme or technical flexibility. The development agenda can be understood as the set of objectives and outcomes through which trade contributes to economic and social development. Over the last two and a half decades, developing country Members have consistently reaffirmed unresolved priorities, including food security, transfer of technology and access to innovation, policy space for industrialisation and structural transformation, policy space for a green transition, crisis management frameworks, TRIPS flexibilities, addressing commodity dependence and supply-side constraints, implementation challenges faced by developing countries and LDCs, debt and balance-of-payments difficulties, and support for LDCs including improved market access and measures to address graduation and preference erosion.

S&DT, by contrast, is a treaty-embedded mechanism to support implementation of WTO rules in light of differing levels of development. It provides flexibilities, transitional periods and technical assistance to enable developing and least-developed Members to meet obligations and exercise rights under WTO agreements. Conflating the two narrows the broader development mandate of the Marrakesh Agreement into a limited debate on differentiation and eligibility.

The WTO Secretariat's compilation identifies 157 S&DT provisions across WTO agreements, grouped into six categories: provisions aimed at increasing trade opportunities for developing countries, provisions requiring Members to safeguard developing country interests, flexibilities in commitments or use of policy instruments, transitional periods, technical assistance, and provisions specific to LDCs. This confirms that S&DT is an operational legal component of the system.[4]

Despite this, the Communication confines Development and S&DT to "scoping," explicitly stating that "we are not here to negotiate outcomes or propose definitive solutions. Rather, what we are doing now is scoping, compiling a structured overview of the challenges in this area" (p. 7). It further summarises views that "the blanket application of S&DT is increasingly contentious," citing "outdated classifications and self-declared statuses," and calling for "objective eligibility criteria" and "context-specific solutions" (p. 8).

That framing redefines S&DT as a flexible policy instrument rather than a legal entitlement and reopens questions of eligibility and differentiation without an agreed mandate. Proposals for "objective criteria" would reverse the presumption embedded in WTO law that developing countries are entitled to S&DT unless they choose otherwise. Such approaches shift the burden of proof onto developing Members and undermine the long-established practice of self-designation, which is reflected in the 1979 Enabling Clause and in GATT Articles XXXVI to XXXVIII.

The reference to "targeted" or "case-specific" application of S&DT risks fragmenting the developing country group by institutionalising hierarchies of entitlement. While the particular vulnerabilities of LDCs, SVEs, LLDCs and NFIDCs require tailored support, this should not erode the collective rights of developing Members as a group. Institutional follow-up has also been limited. The Bali Ministerial Decision on the Monitoring Mechanism on S&DT[5] established a process within the Committee on Trade and Development to review implementation and effectiveness, but this mechanism is ineffective by design.[6] The lack of systematic review reinforces the perception that S&DT is treated as aspirational rather than operational.

The treatment of Development and S&DT as a single issue weakens the normative clarity of both. Development is a systemic principle that should shape all aspects of reform, and S&DT is a legal instrument to operationalise that principle. Beyond this, the role and meaning of S&DT have been progressively diminished, with successive negotiating rounds and outcomes reducing it to limited and often non-binding flexibilities. The repeated characterisation of S&DT as an obstacle to reform lacks factual basis and diverts attention from more significant challenges such as imbalances in the rules, selective compliance and the persistence of unilateral measures.

13. Level playing field and the ASCM

This track is developed more concretely than the development discussion. The Facilitator records that Members proposed revisiting WTO subsidy disciplines, particularly the ASCM,

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[4] World Trade Organization, Committee on Trade and Development. "Special and Differential Treatment Provisions in WTO Agreements and Ministerial Decisions: Compilation of Provisions and Implementation." WTO Document WT/COMTD/W/271, Geneva, July 2023.

[5] World Trade Organization. "Monitoring Mechanism on Special and Differential Treatment." Ministerial Decision, Ninth Ministerial Conference, WT/MIN(13)/45, WT/L/920, December 7, 2013 (Bali).

[6] South Centre, *WTO's MC9: Analysis of the Text on the Monitoring Mechanism*, Analytical Note SC/TDP/MC9/2 (November 2013). See https://www.southcentre.int/wp-content/uploads/2013/12/AN_MC9_2_WTO%E2%80%99s-MC9-Analysis-of-the-Text-on-the-Monitoring-Mechanism_EN.pdf

with some suggesting a modernisation or reactivation of non-actionable subsidies; making better use of existing tools such as notifications; greater openness to discussing industrial policy within the WTO; and exploring a structured work programme on industrial policy and level playing field (p. 11). By comparison, no such list of actionable ideas appears in the development section. The Communication also calls to “reaffirm the WTO’s foundational commitment to market-oriented practices” (p. 11). This combination of detailed options and normative framing elevates the level-playing-field discussion above the other reform tracks.

Although the Facilitator notes that “this is not about pointing fingers,” the framing and terminology align with external policy narratives that characterise certain state-led development models as non-market practices. References to overcapacity, harmful subsidies and market-oriented practices correspond to language used in public statements by some major economies on industrial subsidies and market-distorting behaviour. This reflects the risk of importing plurilateral positions into a multilateral reform setting and gives the impression that the discussion is implicitly directed at large developing economies.

Such framing overlooks that government participation in markets is an established component of economic transformation. State involvement has enabled industrialisation, technology upgrading and diversification in many developing countries, outcomes consistent with the Marrakesh Preamble’s call for “positive efforts… to ensure that developing countries, and especially the least-developed among them, secure a share in the growth in international trade commensurate with their economic development needs.” Selective emphasis on sectors such as steel, clean energy and high-technology manufacturing risks recasting legitimate development strategies as global distortions, while similar interventions in advanced economies are increasingly normalised under green industrial policy.

Proposals to modernise the ASCM or reactivate non-actionable subsidies therefore require careful parameters. Without balance, such reform could legitimise large-scale programmes in developed economies under climate or industrial headings while constraining the same instruments in developing economies. Any revision of subsidy disciplines should address all sources of distortion, including entrenched agricultural, technology and export-support subsidies in advanced economies, and should aim to promote equitable development rather than entrench existing asymmetries.

The African Group’s 2023 communication “A Case for Rebalancing the ASCM – Policy Space to Promote Industrialisation in Developing Countries”[7] set out a development rationale. It proposed reinstating Article 8 on non-actionable subsidies, revising thresholds in Article 27, expanding eligibility under Annex VII, and shielding legitimate industrialisation subsidies from countervailing measures. The aim was to correct structural inequities and restore policy space to pursue industrialisation, regional integration and green transformation.

In subsequent level-playing-field discussions, elements of this developmental agenda have been selectively reinterpreted. Calls to rebalance subsidy disciplines in favour of developing countries are now also cited by some developed Members to justify broader carve-outs for industrial support under domestic climate and industrial plans. The reference to modernising the ASCM and reactivating non-actionable subsidies mirrors language used to legitimise subsidies for climate transition. This risks transforming a developing-country proposal for equitable flexibility into a justification for reclaiming policy autonomy in advanced economies

[7] A Case for Rebalancing the Agreement on Subsidies and Countervailing Measures (ASCM) Policy Space to Promote Industrialisation in Developing Countries.” Communication to the General Council, WTO Document WT/GC/W/880, May 26, 2023.

and illustrates how proposals can be reframed when informal processes shift agenda control away from the full membership.

A genuine effort to rebalance the ASCM should restore the African Group's original intent. Discussions should focus on enabling developing countries to use subsidies for diversification, value addition and sustainable transformation without facing countervailing or dispute actions. The principles advanced in the African Group's communication should remain central, namely expanding flexibilities for developing countries, addressing bias in existing disciplines and ensuring that subsidy rules contribute to industrial and developmental convergence.

Many developing countries may lack the fiscal capacity to use expanded subsidy flexibilities. Restoring balance in subsidy rules is therefore necessary but not sufficient. The broader policy space agenda should also explore other avenues for industrial and technological upgrading, including through the Agreement on Trade-Related Investment Measures and the Agreement on Trade-Related Aspects of Intellectual Property Rights. Flexibilities in these areas can support diversification, local production and technology transfer, particularly for developing and least-developed Members.

Such cross-cutting discussions could be pursued under a structured work programme on Development, parallel to any work programme envisaged for the level-playing-field track. This would ensure that the reform process addresses the full spectrum of instruments required for sustainable industrialisation and development, not only fiscal measures. If there is to be a focused discussion on the ASCM and a dedicated work programme on levelling the playing field, there should be a corresponding and equally structured work programme on Development. Both concern the balance between flexibility and discipline in the multilateral trading system and should advance in parallel so that fair competition does not become a vehicle for disciplining particular development models or legitimising policy autonomy in developed economies.

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