

# WTO Reform: Reflections on Reform Week and Suggested Approaches for Breakout Groups

*Vahini Naidu, Trade for Development Programme, South Centre*

*A Note Reviewing the Process and Reform Tracks in Advance of WTO Reform Week, 5 December 2025*

## Abstract

This note provides an assessment of the papers circulated by the WTO Reform Facilitator for Reform Week and highlights the structural gaps that limit their balance and practical value to move forward these discussions in a manner that takes the demands and interests of developing and least developed country Members into account. The current drafts reflect a narrow interpretation of the consultations, introduce elements that were not examined collectively and overlook mandated issues that continue to shape the functioning of the system. This note sets out the adjustments that Members may wish to propose to restore a development centred framing, make a clear distinction between descriptive reflections and new reform ideas, and ensure that any work proceeds in line with Ministerial instructions for a member driven, transparent and inclusive process. The aim is to place the discussion on a footing that reflects the full range of Member views and respects the mandates already agreed.

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## 1. Introduction

This note provides a brief assessment of the three one-pagers circulated by the WTO Reform Facilitator for “Reform Week” and proposes a coherent way for Members to respond to the request to “review and refine” them.<sup>1</sup> The objective is to ensure that any refinement strengthens balance and accuracy while avoiding the creation of implied mandates or reform pathways that do not reflect developing country priorities. For the avoidance of doubt, the Facilitator’s papers should be understood as Facilitator-prepared reflections for brainstorming purposes and not as negotiated or agreed documents of the Membership. Refinement should therefore be understood as an exercise in correcting omissions, improving balance and clarifying divergence, rather than endorsing or advancing new reform proposals.

## 2. General assessment of the WTO Reform process

The WTO Reform Facilitator, Ambassador Petter Ølberg, issued a communication on 26 November inviting Members to review his papers to ensure that they reflect the broad range of views and to refine them so that they are balanced and manageable. While presented as a technical request, it raises several structural and procedural concerns that the Membership may wish to consider when engaging in the Reform Week.

First, the three papers consolidate a particular interpretation of the reform consultations. They are presented as neutral syntheses, but they incorporate selective elements of Member inputs while omitting many of the concerns raised by developing countries, and they introduce new ideas that were not part of earlier discussions. Because the original one-pagers were used only in small, informal groups and were never reviewed in any plenary setting, the new

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<sup>1</sup> This version is a streamlined public adaptation of analytical notes previously shared with developing country delegations in advance of the WTO Reform Week from 2-5 December 2025. It has been finalised following these breakout sessions to provide a consolidated and accessible record of key analytical points for broader policy reference.

documents appear to reflect continuity even though the underlying material was not agreed by the full Membership.

Second, the organisation of the material into three tracks gives the impression of implicit agreement on the problem statements, even though the Membership has not had a collective discussion on whether these tracks accurately reflect the principal sources of gridlock or development challenges. Significant divergence remains on each of the issues presented.

Third, several issues that are central to many developing Members are either underrepresented or absent from the papers. These include unfulfilled mandates, structural asymmetries, agricultural imbalances, capacity constraints and the role of policy space in industrialisation and diversification. Their omission alters the framing of reform and risks narrowing the development dimension in a manner not grounded in collective guidance.

Fourth, the papers introduce a number of forward-leaning concepts that resemble proposals rather than reflections of Member views. Their appearance in a Facilitator-prepared document risks creating expectations of convergence where none exists and blurs the line between descriptive reflection and prescriptive reform options.

Fifth, the process itself presents challenges for transparency and inclusiveness. Reform Week will again rely on four breakout groups, as set out on page 1 and 2 of the communication, and the listening room facility that several delegations requested months ago will be available for the first time only during this week. Until now, the majority of Members have had no opportunity to observe the consultations or understand how the Facilitator interpreted and weighted inputs from individual delegations. As a result, Members are responding to a single, unreviewed synthesis produced through an informal role with no formal oversight or accountability.

It is also important to recognise that the three tracks identified in the Facilitator's papers cannot be claimed as representing consensus on what constitutes the reform agenda of the Membership. There has been no General Council decision establishing these tracks, no plenary discussion confirming that they reflect collective priorities, and no Member-driven process to compare them with mandates already agreed by Ministers. At the first plenary meeting held on 4 November, several Members raised concerns about the Facilitator's report and its selective interpretation of Member interests. In the absence of formal plenary meetings convened by the General Council Chair, the tracks being advanced through the Facilitator-led process cannot be treated as agreed or endorsed. They remain the product of an informal and non-inclusive process and should not be regarded as a substitute for Member-driven decision-making, as required under the Marrakesh Agreement.

These circumstances also raise questions about how the issues contained in the papers could credibly advance by consensus or be placed before Ministers in the absence of respect for the reform mandates agreed at MC12 and MC13. At MC12, Ministers instructed that necessary reform work "shall be Member-driven, open, transparent, inclusive, and must address the interests of all Members, including development issues." At MC13, Ministers reaffirmed the need to prioritise "implementation of the WTO agreements" and instructed the General Council and subsidiary bodies on necessary reform "to continue to conduct this work," while emphasising again "the centrality of the development dimension" in all areas. The approach taken in the current process departs from these instructions. It relies on informal consultations, unvalidated inputs and documents that introduce reform proposals not examined collectively or transparently. In this context, it is difficult to see how consensus could be reached on these issues, or how they could be placed before Ministers in a manner consistent with the Member-driven and development-centred instructions provided by them.

A credible discussion with Ministers requires that work proceeds on the basis of issues collectively identified by Members, not on the basis of papers prepared through informal processes that reflect the Facilitator's own understanding of the scope and elements of the reform.

### 3. Evolution of the Reform Papers and Implications for Members

The original one-pagers circulated by the Facilitator in early November were short brainstorming inputs for small group consultations and were never discussed or validated in any plenary setting. The new paper issued on 26 November by the Facilitator goes significantly further. While some themes appear in both sets of documents, the new versions expand, operationalise and elevate ideas in ways that have not previously been examined by the full Membership. The following changes are particularly important for Members to understand:

- **Decision-making.** The original one-pager listed general concerns about gridlock and suggested a broad stocktake. The new paper adds detailed reform proposals, including differentiated decision types, procedural steps without strict consensus, thresholds, guardrails and structured audit processes. These represent a shift from reflection to prescriptive procedural redesign.
- **Development and S&DT.** Although the earlier one-pager mentioned political sensitivities around differentiation, it did not include proposals. The 26 November paper turns these sensitivities into concrete reform options, including objective eligibility criteria, challenge mechanisms, graduation pathways, time-bound and needs-based S&DT and new review mechanisms. These proposals were not previously put before the full Membership.
- **Level Playing Field.** The earlier one-pager highlighted structural disadvantages and policy space needs. The 26 November version introduces new elements such as updates to ASCM rules, harm-based subsidy methodologies, new notification templates, development review mechanisms and horizontal institutional platforms. These additions shift the discussion toward rule updating and new disciplines that could affect Members's policy space including to implement industrial policies.

### 4. Suggested Member inputs

The Facilitator-led WTO Reform Week provides space for Members to ensure that the papers accurately reflect the full range of views. Members can therefore use this opportunity not only to comment on the content presented, but to **propose the issues they consider essential for a development-oriented reform**, based on long-standing positions and Ministerial mandates. This approach keeps the papers descriptive, avoids implied endorsement of new proposals and ensures that development priorities remain central.

Below are some specific issues that Members may consider reintroducing or strengthening across all tracks. The objective is to rebalance the proposed reform elements with the development priorities and mandates that guide the Membership. These adjustments are necessary to ensure that the papers do not advance a partial view of reform that omits the concerns of the majority of developing Members.

### **Cross-cutting issues for all three tracks**

Members may wish to propose the following overarching refinements:

- a. **Reinsertion of development-centred positions:** The papers should be adjusted to ensure that development concerns, unfulfilled mandates, and structural asymmetries appear as core contextual elements across all tracks
- b. **Clear differentiation between descriptive reflections and reform proposals:** Members can request that the papers be structured to distinguish between views expressed by some Members and areas where no collective discussion has taken place
- c. **Reference to unresolved mandates from Doha, Nairobi, MC12 and MC13:** These long-standing commitments provide essential context for understanding the current functioning of the system
- d. **Reinforcement of the Ministerial instructions on Member-driven, transparent and inclusive reform:** A short section can be added to clarify that work must respect the guidance provided at MC12 and MC13
- e. **Inclusion of the economic and structural realities facing the majority of developing countries:** This helps ensure that fairness, participation and decision-making structures are not assessed in isolation from real-world constraints
- f. **Requesting clear indication of authorship and status:** Members may ask that the papers explicitly distinguish where ideas reflect the Facilitator's own structuring or suggestions, as opposed to positions or proposals previously put forward by Members, so as to avoid any presumption of convergence or endorsement.

### **Issues Members can reinsert under *Decision-making* (page 3)**

Members may wish to propose the following elements to correct the imbalance:

- a. **Emphasise the importance of resolving unfulfilled mandates:** A revised paper should note that decision-making challenges are linked not only to procedures but to unresolved mandated issues
- b. **Highlight political and structural drivers of gridlock:** Members can propose inserting text emphasising that consensus difficulties often arise from divergent development priorities, asymmetrical negotiating power and lack of progress on core issues
- c. **Insert Member views on consensus as a foundational safeguard:** The majority of Members consider consensus essential for legitimacy. This can be added to balance the discussion
- d. **Add recognition of capacity constraints in smaller delegations:** This explains why procedural changes without addressing resources will not improve participation
- e. **Clarification that any exploration of "flexibility" should not create de facto new decision-making categories:** Members may wish to propose language underscoring that discussions on differentiated decision types, thresholds or procedural shortcuts cannot alter the consensus requirement for rule-making without an explicit Ministerial mandate to amend the Marrakesh Agreement
- f. **Recognition of the link between decision-making and respect for existing rules and mandates:** Members could suggest text recalling that effective decision-making also depends on implementation of existing obligations and mandates, and that procedural reforms cannot substitute for compliance with agreed rules and instructions

#### **Issues Members can reinsert under *Development and S&DT* (page 4)**

Members may wish to include:

- a. **A clear reaffirmation of S&DT as a treaty-embedded right:** This can be added as a balancing clarification to ensure that S&DT is not framed as discretionary or conditional
- b. **Stronger language on implementation gaps:** Since many Members consider this the main issue, they can propose refining the draft to reflect that the primary concern is the non-operationalisation of existing S&DT provisions
- c. **Reference to structural constraints and asymmetric productive capacities:** This reinforces why S&DT remains central to the functioning of the system
- d. **Reinsertion of the link between S&DT, technology transfer and capacity building:** This ensures that the paper captures the full developmental context
- e. **A request to avoid introducing new categories or criteria without a Ministerial mandate:** Members can propose text noting that differentiation debates require formal guidance
- f. **Drawing attention to S&DT-type flexibilities available to developed Members:** Members may wish to recall that various flexibilities, exceptions and waivers benefiting developed Members also shape the balance of rights and obligations in the system, and that discussions on reforming S&DT for developing countries should be situated within this broader context
- g. **Emphasising that effectiveness of S&DT should be assessed primarily against development outcomes, not solely against narrow trade-distortion metrics:** Members may wish to propose that any evaluation of S&DT reforms take into account poverty reduction, diversification, industrialisation and resilience objectives, so that efforts to “modernise” S&DT do not erode its core developmental function

#### **Issues Members can reinsert under *Level Playing Field* (page 5)**

Members can propose elements that restore the required development balance:

- a. **Explicit reference to structural inequities in global markets:** This includes concentrated value chains, agricultural distortions and subsidy asymmetries
- b. **Recognition of the central role of policy space for industrialisation:** Members can request this to be reinserted or strengthened, given its importance in previous discussions
- c. **Explicit mention of historical imbalances in subsidy disciplines:** This ensures the paper is complete and avoids implying that existing rules are neutral
- d. **More emphasis on capacity challenges in transparency and notification obligations:** This keeps the discussion rooted in actual circumstances faced by many Members
- e. **Clarification that any discussion of updating rules must remain within existing mandates:** Members can propose adding a simple line noting that rules-updating has not been mandated by Ministers
- f. **Recognition of MFN and binding obligations in assessing the level playing field:** Members may wish to highlight that perceptions of an uneven playing field are also driven by the proliferation of selective “side deals,” the increasing resort to unilateral and preferential arrangements that erode MFN, and instances of non-compliance with tariff bindings and other core commitments by the United States. Members may propose language clarifying that respect for existing non-discrimination and binding obligations is an essential element of any credible approach to level playing field issues
- g. **Reaffirmation that addressing existing asymmetries should prioritise long-standing distortions and imbalances in support and market access:** Members may wish to

propose text underscoring that efforts to promote a level playing field should first tackle persistent subsidy, market access and agricultural support imbalances that have accumulated over time, rather than creating new constraints on the industrial policy tools of developing and least developed Members

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For enquiries, please contact: [Naidu@southcentre.int](mailto:Naidu@southcentre.int) or visit <https://www.southcentre.int/>