

WTO Reform: Institutional Authority and the Boundaries of the Facilitator-led Process

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An Analytical Note on the WTO Reform Facilitator-led Process and Work Plan, 8 February 2026

Abstract

This analytical note examines the WTO reform process reflected in the Draft Ministerial Statement and the proposed Post MC14 Work Plan dated 3 February 2026. It assesses whether the current process provides a sound basis for transmitting any reform outcome to Ministers at MC14. The note identifies procedural, institutional, and substantive concerns arising from the increasing reliance on facilitation led, non-consensual materials, limited anchoring in prior Ministerial mandates, and drafting choices that risk normalising a particular framing of reform in the absence of Member convergence. It highlights sequencing problems, the narrowing of the development agenda through its conflation with special and differential treatment, the premature elevation of plurilateral integration, and the marginal treatment of dispute settlement. These concerns suggest that the proposed Work Plan risks constraining Member-driven deliberation and weakening institutional balance. The note concludes that the Work Plan should not be treated as a basis for any reform outcome to be transmitted to Ministers at this stage.

I. INTRODUCTION

This note examines the WTO Reform Facilitator, Ambassador Petter Ølberg's Draft Ministerial Statement on WTO Reform and Work Plan dated 3 February 2026 in light of whether it can appropriately serve as a basis for transmitting any WTO reform outcome to Ministers at MC14. On the basis of the considerations set out below, it finds that the proposed Work Plan does not provide a sufficient basis for any such outcome to be transmitted at this stage.

II. PROCESS

1. Concerns present from the outset

From the beginning, many Members have raised concerns about the way the WTO reform process has been organised and accelerated. While there is recognition of the Facilitator's efforts to structure discussions and maintain momentum, unease has grown as the process has evolved. In particular, concerns have centred on the increasing reliance on documents and narratives that were never intended to carry political or institutional authority, yet are now being treated as reference points for potential reform outcomes to be placed before Ministers at MC14.

2. The non-consensus status of the Facilitator's report

In his report to the General Council (JOB/GC/483), the Facilitator states clearly that the report is issued "under my own responsibility and is without prejudice to any Member's position". He further notes that the one-pagers and summaries used to organise discussions "were not consensus documents" and were intended solely to support more focused exchanges. This clarification confirms that Members' views remain divergent and that the materials produced to date reflect the Facilitator's framing and interpretation of discussions, rather than any agreed understanding of the scope, priorities, or direction of WTO reform.

3. Limits of Member-driven ownership in the current process

Despite the concerns expressed by Members, including those raised in formal meetings and now reflected in written submissions, the reform process continues to advance primarily through facilitation-led framing and structuring, albeit accompanied by repeated disclaimers that such material does not represent consensus and is issued under the Facilitator's responsibility. While these disclaimers are important, they do not alter the underlying reality that the core architecture of the Draft Ministerial Statement and the Work Plan has not emerged from a bottom-up negotiation by Members. At this stage, the only clearly Member-driven inputs are the formal written submissions placed on the record, including those by the African Group (WT/GC/W/971), the European Union (WT/GC/W/986), the United States (WT/GC/W/984), the LDC Group (WT/GC/W/979), the ACP Group (WT/GC/W/975), and Paraguay (WT/GC/W/987), and Member statements in formal meetings of the TNC and GC. These submissions reflect distinct and, in several respects, divergent positions. Advancing a common work programme without reconciling these differences through Member-driven processes risks conflating the Facilitator-led reform process with Members' agreement and weakens the claim that the reform process is genuinely Member-owned.

4. Elevating non-consensual material through footnotes

A related concern arises from the way the Draft Ministerial Statement and the Work Plan rely on footnotes to anchor the reform process in the Facilitator's reports. While these footnotes acknowledge that the reports do not represent consensus and were issued under the Facilitator's responsibility, they nevertheless position that framing as the starting point for identifying issues, structuring the Work Plan, and guiding post-MC14 engagement. In effect, material explicitly presented as exploratory and non-consensual risks becoming the baseline for future work and for what is ultimately placed before Ministers. This blurs the line between facilitating discussion and shaping outcomes, and risks locking in a singular interpretation by the Facilitator of Members' views rather than through discussion, negotiation and consensus.

III. INSTITUTIONAL BALANCE

5. Missing anchoring in prior Ministerial mandates and safeguards for a Member-driven process

The Draft Ministerial Statement does not sufficiently anchor the reform process in prior Ministerial Decisions, including the MC12 Outcome Document and the Abu Dhabi Ministerial Declaration from MC13, which have been repeatedly referenced by Members during discussions. In WTO practice, such anchoring is essential for institutional coherence and preserving continuity with agreed Ministerial guidance. Its absence risks creating the impression of a new, free-standing political mandate on reform, detached from previously agreed decisions and negotiated balances under the Marrakesh Agreement. At the same time, the Draft Work Plan and the Revised Road to Yaoundé (JOB/TNC/127/Rev.2/Add.1/Rev.1) expand the role of the WTO Reform Facilitator and a growing circle of "Friends" in ways not clearly grounded in existing rules of procedure.

Under the proposed modalities, the General Council (GC) Chair would appoint "Friends of the WTO Reform Facilitator" for each of the main tracks, with the Facilitator and Friends coordinating work across Councils, Committees, and Negotiating Groups and reporting to the GC on a multi-year schedule. In parallel, the Revised Road to Yaoundé foresees dedicated Ministerial breakout sessions on WTO reform structured around themes drawn from this

facilitation process, with the Facilitator effectively positioned as the central organising node for both Geneva-based and Ministerial-level engagement.

Together, these elements would in practice consolidate the Facilitator's role as a de facto chair of the reform exercise, supported by an expanded facilitation structure, but without the formal accountability, neutrality or procedural safeguards that apply to WTO chairpersons under established rules of procedure. They risk shifting the centre of gravity of WTO reform away from the GC and towards an ad hoc facilitation process, while inviting Ministers at MC14 to confer political endorsement on this architecture as part of a new reform mandate.

6. Language in Paragraphs 1 and 2 of the Draft Ministerial Statement

The language in Paragraphs 1 and 2 of the Draft Ministerial Statement reinforces these concerns. Paragraph 1 refers to a "shared commitment to advancing reform", "welcomes" exchanges, submissions, and "the work carried out thus far", and characterises identified issues as warranting "further exploration for reform". Read together, this language implies a level of convergence that does not reflect the state of discussions, particularly given the explicit clarification elsewhere in the document that the Facilitator's reports and summaries were issued under his own responsibility and do not represent consensus. Paragraph 2 compounds this effect by instructing officials to "continue this work with a sense of urgency", guided by a Work Plan that has not been agreed by Members, and by anticipating a progress report containing "recommendations for action" and a Ministerial mid-term review. The cumulative effect is to normalise and legitimise a particular framing of reform despite the absence of agreement on scope, sequencing, or objectives.

IV. SUBSTANTIVE DISTORTIONS IN THE WORK PLAN

7. Objectives articulated before diagnosis

The structure of the proposed Work Plan deepens these concerns. Although the reform exercise has consistently been described as exploratory, the Work Plan already sets out objectives, phased pathways from diagnosis to convergence, timelines, and review points extending beyond MC14. For many Members, this sequencing runs ahead of where discussions actually stand. Objectives are articulated before stocktaking is complete, and reform directions are sketched while fundamental disagreements remain unresolved across all tracks.

8. Divergences acknowledged but insufficiently reflected

The Facilitator's own report records deep disagreement among Members on the causes of institutional dysfunction, noting concerns that an emphasis on procedural reform without addressing unfulfilled mandates and weakened trust risks offering "false solutions". Similar divergences are recorded on decision-making, S&DT, industrial development, and level-playing-field concerns. These differences are substantive and persistent. However, the Draft Ministerial Statement moves towards recommendations and future reporting to Ministers in a manner that does not fully reflect the unsettled nature of these debates.

9. Introduction of non-agreed terminology

The Work Plan relies on terms such as "level playing field", "flexibility tools", "efficiency", and "outcome-orientation", none of which are defined or agreed among Members. These terms carry different meanings for different Members. Their repeated use without clarification risks

embedding particular policy assumptions into the structure of the work before Members have agreed on the underlying concepts or problems to be addressed.

10. Narrowing the development agenda through drafting choices

A central concern relates to how development is framed. The treatment of development in the Work Plan risks narrowing a broad substantive mandate into a discussion largely framed around S&DT and questions of differentiation and eligibility. Development is a core objective of the WTO, anchored in the Marrakesh Agreement and in longstanding mandates on agriculture and the correction of implementation-related imbalances, and the integration of developing and least developed country Members into the multilateral trading system. Hence, it cannot be reduced to a debate on flexibilities alone. By listing “development and special and differential treatment” as a single item, and by merging objectives, diagnostics and activities for both into one track, the Work Plan effectively conflates a substantive objective (development) with one of the instruments designed to support it (S&DT).

The Facilitator’s drafting will have serious consequences for developing and least developed countries. It predisposes discussions towards tightening or re-targeting S&DT as a proxy for addressing development, while leaving little structured space for systemic rebalancing of rules, progress on agriculture, or correction of implementation imbalances that constrain structural transformation. A more appropriate approach would be to treat development and S&DT as distinct but mutually reinforcing pillars i.e., development as the overarching objective guiding all tracks, and S&DT as one of several tools, to be improved without undermining existing entitlements, the principle of self-designation, or the universality of S&DT provisions for developing-country Members.

11. Plurilaterals elevated prematurely

Within the decision-making track, the Work Plan lists as an objective the facilitation of the integration of plurilateral outcomes. This elevates a contested reform direction at a very early stage, before Members have agreed on the legal status, conditions, or systemic implications of such integration. Paraguay’s submission underlies this concern, cautioning that plurilaterals should not be pursued in a manner that sidelines multilateral negotiations or unresolved mandates, particularly in areas of importance to developing Members, and calling for clarity on participation thresholds, competing initiatives and mechanisms for incorporation into the WTO framework. The current formulation in the Work Plan risks turning it into a vehicle for consolidating plurilateral outcomes without addressing the growing concerns around work on longstanding mandates.

12. Dispute settlement structurally marginalised

Dispute settlement illustrates the asymmetry in how reform pillars are treated. Despite being recognised across the Membership as a systemic priority and as a precondition for credible rule-making, dispute settlement reform is treated only in a short, unstructured paragraph outside the Work Plan matrix, without objectives, phases, or timelines comparable to the other tracks. This creates a clear hierarchy i.e., decision-making, development/S&DT and level playing field are operationalised through detailed objectives, diagnostic steps and convergence phases, whereas dispute settlement is reduced to a generic call to resume consultations under the auspices of the DSB after MC14.

This approach is at odds with the centrality that the majority of Members attach to restoring a fully functioning, binding and accessible dispute settlement system, including a two-tier structure, as a collective public good. It also departs from some recent reform proposals that frame DS reform as an integral pillar of WTO reform, with concrete objectives (accessibility,

affordability, impartiality, predictability, enforceability of outcomes, and effective operationalisation of S&DT in dispute settlement). A Member-driven Work Plan consistent with these priorities would either (i) include dispute settlement as a full-fledged column in the key-activities matrix, with its own objectives, diagnosis, exploration and convergence phases, or (ii) at minimum, state explicitly that DS reform will follow the same phased approach and ambition as other tracks, with the expectation of concrete, balanced results by MC15.

13. “Issues of our time” and systemic questions

The inclusion of a residual “Other areas / Issues of our time” basket, coupled with references to MFN, reciprocity, the use of GATT Articles XX and XXI, unilateral measures, and the role of the Secretariat, raises particular concerns. In the Facilitator’s report, several of these questions are identified as fundamental systemic tensions contributing to current instability in the multilateral trading system. In the Draft Work Plan, they are placed in an open-ended category without defined objectives, a phased work programme, or procedural safeguards, while being explicitly flagged as potential areas for further work.

This treatment creates two risks. First, it allows politically sensitive and legally complex issues, regarding reciprocity, security exceptions, or unilateral measures, to be advanced under the reform rubric without the discipline of an agreed mandate, diagnosis, or development lens. Second, it contrasts sharply with the structured treatment afforded to decision-making, development and S&DT, and level playing field issues, thereby creating an implicit hierarchy among reform pillars and weakening the systemic coherence of the reform exercise. This asymmetry reinforces perceptions that long-standing mandates, including on policy space and development, are being contained within tightly framed tracks, while newer or more contested agendas are afforded more flexible and less constrained entry points.

If these matters are to be addressed as part of the WTO reform, consistency across all tracks is essential. Issues of this systemic nature should be subject to the same level of structure, sequencing, and safeguards as other tracks, including clearly articulated objectives and a diagnostic phase.

V. MINISTERIAL SEQUENCING AND MC14 CONSEQUENCES

14. Geneva-first and the limits of Ministerial engagement

Under the Geneva-first principle reaffirmed in the Revised Road to Yaoundé, only issues where genuine convergence has been achieved through Member-driven processes in Geneva should be transmitted to Ministers for consideration or endorsement. In the absence of such convergence, placing the current Draft Work Plan before Ministers would depart from the stated sequencing of the reform process and risk drawing Ministerial engagement into areas that remain exploratory and contested.

15. An unresolved contradiction in the MC14 design

The current design of MC14 raises a sequencing issue that has not yet been resolved. The programme allocates eight hours to Ministerial breakout sessions on WTO reform, followed by a single plenary session framed explicitly as a transparency exercise rather than a decision-making session.

If no convergence is achieved and no agreed outcome is transmitted from Geneva, it is unclear what purpose the reform-focused breakout sessions are meant to serve. Ministers would be asked to engage extensively on issues identified through the Facilitator’s text rather than

through Member-agreed texts. If, alternatively, a convergence document is transmitted consistent with the Geneva-first principle, the rationale for extended breakout discussions is equally unclear. Where substantive issues have already been settled in Geneva and are presented for adoption, it is difficult to identify what Ministers are expected to discuss at length in breakout settings. In both scenarios, the MC14 programme appears internally inconsistent, underscoring the need for clarification before proceeding further.

VI. INSTITUTIONAL IMPLICATIONS OF THE CURRENT APPROACH

16. A work plan that risks over-engineering the process

Rather than setting out a flexible framework for Member-driven deliberation, the proposed Work Plan adopts a prescriptive and pre-sequenced procedural structure, with predefined objectives, tightly sequenced phases, fixed checkpoints, and pre-allocated reviews extending through to MC15. This approach risks constraining Members' ability to shape the agenda, recalibrate priorities, or adjust sequencing as discussions evolve, despite the reform process remaining at an exploratory stage. This, in turn, increases the risk of erosion of Member confidence and eventual failure.

Members have consistently indicated support for developing a work programme on WTO reform. That programme, however, must be owned and developed by Members, remain under the responsibility of the GC, and preserve genuine space for adaptation as discussions evolve. This includes ensuring that development functions as a cross-cutting organising objective rather than a sub-item, that dispute settlement reform is treated as a fully fledged pillar with its own structured track, and that any additional issues are taken up only within clearly understood and Member-agreed parameters, rather than through open-ended baskets or facilitator-driven micromanaged lists of tasks.

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