Book Review

A BOOK REVIEW OF CHANG FA LO UNLOCKING WTO DECISION-MAKING: REBUILDING COOPERATIVE CONSENSUS CULTURE TO REMEDY THE EFFICIENCY DEFICIT (SPRINGER NATURE SINGAPORE, 2026)

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ABSTRACT

There are many pundits, policy makers, and politicians keen to critique the World Trade Organisation (hereinafter "WTO") and nearly as many ready to announce that the institution has declined into irrelevancy. Far fewer people have looked beyond contemporary geopolitical challenges to the mechanics of the WTO's negotiation processes and drawn on dispute resolution theory in search of a solution. Here, the book Unlocking WTO Decision-Making: Rebuilding Cooperative Consensus Culture to Remedy the Efficiency Deficit by Professor Chang Fa Lo offers a considered, well-reasoned and plausible suggestion for the reinvigoration of the WTO, albeit one grounded in considerable optimism.

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Reports of the death of the World Trade Organization (hereinafter "WTO") have, to borrow the familiar misquotation of Mark Twain, repeatedly proved exaggerated. Yet reports of its dysfunction are considerably harder to dismiss. There are many pundits, policy makers, and politicians keen to critique the WTO and nearly as many ready to announce that the institution has declined into irrelevancy. Far fewer people have looked beyond present geopolitical challenges to the mechanics of the WTO's negotiation processes and drawn on dispute resolution theory in search of a solution. Professor Chang Fa Lo's monograph offers a considered, well-reasoned and plausible suggestion for the reinvigoration of the WTO, albeit one grounded in considerable optimism.

Unlocking WTO Decision-Making: Rebuilding Cooperative Consensus Culture to Remedy the Efficiency Deficit (Springer Nature Singapore, 2026), is a timely study of the decision-making processes of the WTO. As Professor Lo explains, the impetus for this book came from half a decade posted to the WTO, and his experiences in directly participating in negotiations, proposals and institutional discussions. The objective of his book is to connect legal analysis with reality of the WTO's procedures, and to remedy what he describes as the "efficiency deficit"—"the WTO's persistent inability to produce timely, adaptive, broadly acceptable and practically implementable decisions."[1] It is important to emphasise that Professor Lo is not calling for (necessarily) a speedier negotiation process—complex issues naturally tend to require a lengthy process, but it can still be "efficient" in Professor Lo's terminology if the negotiations produce legitimate, durable and implementable results. The converse is also true—a quick decision can be institutionally inefficient if it lacks ownership, comprehensive coverage and practical scope for implementation.[2]

Professor Lo does not shy away from the "existential challenge" of the WTO that has been caused by geopolitics, such as the confidence- and certainty-eroding use of the national security mechanism and the targeted use of trade remedies. However, he focuses instead on the decision-making approaches that have exacerbated "persistent negotiation deadlock, delayed decision-making and the growing inability of Members to translate negotiating agreement into collectively binding outcomes."[3] The result of this deadlock is a move towards preferential trading arrangements, successful conclusion of only the most modest of multilateral WTO agreements within the WTO, and the proliferation of Joint Statement Initiatives (hereinafter "JSIs") that are praised by some members as "variable geometry" but criticised by others as being exclusionary and not in keeping

[1] CHANG-FA LO, UNLOCKING WTO DECISION-MAKING: REBUILDING COOPERATIVE CONSENSUS CULTURE TO REMEDY THE EFFICIENCY DEFICIT 9 (2026).
[2] *Id*. at 21-22.
[3] *Id*. at 5.

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with the WTO acquis.[4] Where geopolitics co-occurs with the efficiency deficit, its cause, in Professor Lo's opinion, is the conventions around use of the consensus rule.

Consensus is built into the narrative and self-image of the WTO, which describes itself as "member-driven and consensus-based,"[5] and the institution takes pride in the fact that majority voting is not used, despite it being expressly envisaged in the wording of Article IX:1 of the *Marrakech Agreement Establishing the World Trade Organisation*. This is considered in detail in the Part I of the book, charting the transfer of institutional practice developed under the General Agreement on Tariffs and Trade (GATT) and carried through to the WTO and the benefits of the consensus-based approach (Chapter 2), and critiques the over-simplification of the idea of a "*de facto* veto" (Chapter 5). In Chapter 6, Professor Lo argues that consensus has a constitutional status on the WTO system—having become a "foundational organizing principle"[6] that is regarded as immutable[7] and prevents the erosion of confidence in the WTO framework.[8] This is quite a helpful way of conceptualising what is otherwise quite mysterious fact that Article IX clearly contemplates a majoritarian-based solution to decision-making, but that instead there is a firmly entrenched institutional convention to avoid resorting to an otherwise useful mechanism. Thus, while the erosion of cooperative culture makes the entrenched consensus approach quite dysfunctional, the solution is not to abandon it, but rather to remedy the trust and cooperation.

Part II develops the core contribution of the book—how to rebuild trust and cooperation in order to remedy the efficiency deficit—building what Professor Lo described as a "cooperative consensus—not merely the procedural absence of formal objections, but a deeply institutionalized habit or rule-oriented engagement, mutual restraint and calculated compromise."[9] The Part begins by further explaining the futility of attempting to replace the consensus rule, before exploring the proposal introduced by Singapore in 2024, known as the "Responsible Consensus" proposal, which was co-sponsored by various delegations including the author's own.[10]

Chapter 8 revisits the unsuccessful proposal, considering the reasons behind its failure to gain traction, including the inherent subjectivity of "responsible" actions in the face of potential impacts on a state's self-interest.

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[4] See, for example, Jane Kelsey, *The Illegitimacy of Joint Statement Initiatives and Their Systemic Implications for the WTO*, 25(1) J. INT'L ECON. L. 2 (2022).
[5] *Whose WTO Is It Anyway?*, WTO, https://www.wto.org/english/thewto_e/whatis_e/tif_e/org1_e.htm.
[6] LO, *supra* note 1, at 49.
[7] *Id*. at 50.
[8] *Id*. at 52-53.
[9] *Id*. at 9.
[10] *Id*. at 67.

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While not directly explored in the Chapter, timing was not on the side of the Responsible Consensus proposal, with the change of United States (US) administration indelibly changing the dynamics at the organisation.[11] Chapter 9 contains some of the most interesting content in the book, as it examines through a series of case studies the benefits and challenges of implementing interest-based negotiation in complex, multiparty and linked multi-issue negotiations. Professor Lo helpfully provides case studies of the Information Technology Agreement, the Trade Facilitation Agreement and the JSI negotiations as situations where integrative approaches were successfully deployed, and examples of interest based and structured negotiations mitigating some of the challenges in the WTO Members attempting to negotiate dispute settlement reform (even though the process ended in stalemate).

As Professor Lo observes, "[t]he approach facilitated structured, transparent exchanges that clarified Members' underlying concerns, highlighted areas of tentative convergence, and produced substantial analytical outputs."[12] There seems no doubt that the work of facilitators Molina and Dwarka-Canabady brought the WTO closer than could have been imagined to meaningful progress on dispute settlement reform. From a conflict resolution lens, this highlights the essential importance focussing on process—with procedural fairness being at least as important to parties as the substantive outcome. However, Professor Lo also observes in Chapter 11 that in the current environment of low-trust, procedural "cards" are often held by the Members to strengthen their hand in substantive negotiations, meaning that "defensive postures have become the norm."[13]

Chapter 11 also offers concrete suggestions for rebuilding trust. Amongst the most feasible, low-stakes solutions offered by Professor Lo is what he calls "intentional legibility" or "narrative transparency," which requires parties putting a position to table their positions together with an explanation of why the Member has taken that position, as well as an explanation of "the domestic or institutional constraints shaping their negotiating space and the boundaries within which compromise is possible,"[14] To a domestic lawyer, these sounds like the hallmarks of a good faith approach to negotiation, and very worthwhile practices to embed into the WTO's negotiating processes. A second suggestion relates to the enhanced use of facilitators—again, this is a concept that resonates with any

[11] See, for example, the statements appearing to support of a responsible consensus by María Pagán, United States (US) Deputy Trade Commissioner under the Biden Administration—Inu Manak & Manjari Chatterjee Miller, *Responsible Consensus at the WTO Can Save the Global Trading System*, COUNCIL ON FOREIGN REL. (Jan. 22, 2024), https://www.cfr.org/articles/responsible-consensus-wto-can-save-global-trading-system.
[12] LO, *supra* note 1, at 87.
[13] *Id*. at 103.
[14] *Id*. at 107.

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litigation lawyer who has seen for themselves the capacity of a mediator to broker agreement between parties in conflict. More could be made of this suggestion—particularly the scope to have (relatively) non-partisan facilitators, who like members of the (defunct) Appellate Body are inevitably nationals of a particular Member, but explicitly are not there to represent their state's interests. Another way of amplifying the benefits of a third-party neutral, especially where issues are complex and large numbers of parties are involved, are as facilitators of the negotiation process itself—narrowing the issues in dispute, agreeing on objective criteria, managing timelines, drawing out underlying interests, and progressively identifying possible areas of convergence without engaging deeply with the substantive outcomes.

In Chapter 13, Professor Lo considers the capacity of the WTO itself to work inclusively to redress the trust deficit and facilitate negotiations more effectively. This chapter includes a fairly detailed discussion of the Green Room process, noting that since the 12th WTO Ministerial Conference (MC12), the Director General has made significant steps forward in using Green-Room type meetings in a more transparent and inclusive fashion. The role of the WTO's institutional expertise, both the Secretariat and the Director General, is expanded upon further in Chapter 14. Here, Professor Lo's suggestions are fairly restrained and deferential to existing practices, but he notes the capacity of the Secretariat and Director General to enhance a cooperative culture.[15]

In Chapter 15 the focus is on how best to harvest the wins that are made in WTO negotiations. Here, the Fisheries Subsidies Agreement provide an interesting example, where the Members chose to "consolidate those elements on which convergence had already been achieved" rather than wait for comprehensive agreement on all open issues.[16] Professor Lo also considers ways in which negotiations and rounds can be sequences, how flexible interim commitments can be deployed—all of which would be deserving of a chapter on their own.

Finally, in Part III of the book, Professor Lo tests how the concepts in the preceding chapters could be deployed in a range of existing negotiations, again examining Fisheries Subsidies, dispute settlement reform, as well as the Services Domestic Regulation JSI and the E-Commerce Initiative. The conclusion, which is realistic in its ambit, is that there is of course no silver bullet for the WTO's efficiency deficit. Instead, his prescription comprises a series of comparatively modest interventions directed towards rebuilding the institutional conditions in which consensus can function.

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[15] For a less incremental model, see the stewardship model proposed in Lisa Toohey, *Reinvigorating the WTO from the Inside Out — Revisiting the Role of the Secretariat*, 9(2) ASIAN J. WTO & INT'L HEALTH L. & POL'Y 385 (2014).

[16] LO, *supra* note 1, at 142.

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A great strength of this book is the depth and breadth of Professor Lo's experience. As a lawyer, judge, academic and diplomat, Professor Lo brings a rare and exceptionally rich perspective to the interaction between rules and culture, and between international organisations and their constituents. Inevitably, institutional change is a complex process, and perhaps nowhere more so than in an organisation attempting to reconcile the economic and political interests of 166 Members while tackling some of the thorniest development and regulatory issues imaginable. Professor Lo does not suggest that better process can eliminate geopolitical differences, or necessarily produce outcomes where there is vast disagreement. Rather, the great value of this book lies in demonstrating that the processes through which Members manage their differences matter, and that comparatively modest changes may improve the prospects for cooperation even where substantive disagreement persists. *Unlocking WTO Decision-Making* therefore makes a welcome and extremely valuable contribution to the debate about how best to manage global trade governance at a time when the WTO appears at its most fragile.

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