

INTERNATIONAL JOURNAL OF LEGAL STUDIES AND SOCIAL SCIENCES [IJLSSS]

ISSN: 2584-1513 (Online)

Volume 2 | Issue 2 [2024] | Page 471- 478

© 2024 International Journal of Legal Studies and Social Sciences

Follow this and additional works at: <https://www.ijlsss.com/>

In case of any queries or suggestions, kindly contact editor@ijlsss.com

POST WORLD TRADE ORGANISATION DEVELOPMENT

- Ashok Padiyar¹

ABSTRACT

The World Trade Organisation has been viewed as a foundation of International Trade for resolving disputes and simplifying negotiations among its member nations. World Trade Organisation in the recent years has faced many challenges like struggling to keep pace with a dynamic economy. In this research paper we will discover the Concept of “World Trade Organisation 2.0” which is better prepared to face the difficulties of the 21st Century. In this research paper the concept of the “World Trade Organisation “will be explored. Considering the existing data, literature and case studies, this paper will examine key areas for improvements in the dispute resolution process, governing structure and addition of new issues such as climate change and E-commerce. By suggesting concrete ideas and reforms for the World Trade Organisation this paper aims to contribute about the future of global trade governance.

Keywords: World Trade Organisation, globalization, E-commerce

INTRODUCTION

The World Trade Organisation started on 1st January 1995 and its trading system began on 1948. Since 1948, the General Agreement on Tariffs and Trade (GATT) provided the rules for the system. The largest and last GATT round was held in Uruguay which lasted from 1986 to 1994 and led to the creation of WTO. The main objective of the WTO is to help its members use trade as a means to create jobs, raise this standard of living, create jobs and improve life of people. Some of the challenges faced by the World Trade Organisation are Deadlock in negotiations, effectiveness of dispute settlement mechanism, rising protectionism. This paper explores the idea of the “World Trade Organisation 2.0” which is a better version of WTO to address the challenges and opportunities of the 21st Century.

¹ Vivekananda Institute of Professional Studies, IPU

EVOLUTION OF THE WORLD TRADE ORGANISATION

²The World Trade Organisation has stood as an example of the global trade governance which strive to facilitate the flow of goods and services across the borders while also upholding the principles of fairness, non- discrimination and transparency. However, the journey of the World Trade Organisation has been marked by a series of big transformations and adaptations which reflects the shifting dynamics of the global economy and the evolving needs of the member nations.

The roots of the World Trade Organisation can be traced back to the aftermath of the World War II when the need for a more stable and predictable was recognized by the International Community. In 1947, 23 Nations representatives gathered in Geneva to sign the General Agreement on Tariffs and Trade (GATT) which laid the groundwork for a multilateral system of trade rules aimed to reduce barriers to international commerce. General Agreement on Tariffs and Trade embodied the principles of nondiscrimination, transparency and reciprocity, providing a forum for negotiating tariff reductions, resolving the disputes among member states.

Over the decades, GATT underwent several rounds of negotiations which was marked by its own set of achievements and challenges. The Kennedy Round focused on reducing tariff, Tokyo Round expanded the scope of negotiations to include non-tariff barriers. GATT still faced many challenges including the rise of protectionism in the 1970s and 1980s.

In response to the challenges, the member states embarked on a new round of negotiations in the late 1980s, concluding the establishment of the World Trade Organisation in 1995. The World Trade Organisation, built upon the foundations of GATT sought to modernize and expand the scope of International Trade rules, addressing the new issues. The creation of World Trade Organisation was a significant milestone in the evolution of the global trade governance which provided a more robust institutional framework for negotiating trade agreements and monitoring trade policies.

¹ At a two-day Summit Conference of the African Union in Abuja, Nigeria, on November 11-12, 2005, President John Agyekum Kuffuor of Ghana, who was the chairman of the opening session, stated that: “when nations join with others in a trade or political bloc, they give up a portion of their national sovereignty. What people need to understand is that the solutions to the problems that affects them as individuals or as groups today can no longer be found just at the national level”

Despite its achievements, the World Trade Organisation has not been immune to challenges in the 21st century. Rising protectionism, deadlock negotiation and criticism of its dispute settlement mechanism have tested the organization's resilience and effectiveness's emergence of new challenges such as climate change, digital trade and global supply chain disruption has understood the need for the World Trade Organisation to adapt and innovate in order to remain relevant in a rapidly changing world.

STRUCTURE OF WORLD TRADE ORGANISATION

³The World Trade Organisation Secretariat is headed by the Director General, the highest authority in the World Trade Organisation is the Ministerial Conference which is a makeup of representatives of the member states. The ministerial Conference needs to meet at least once in two years. It is the decision-making organ. Under the GATT 1947 consensus should be achieved in order to reach a decision. Under World Trade Organisation, the decision of the Ministerial Conference and the General Council are made by the consensus. However, in case where consensus could not be reached, it was determined by majority vote cast by member States. The General Council is the administrative organ. There are also some special councils which is below the level of the General Council. These also include: Council for Trade in Goods, Council for TRIPS, Council for Trade in Services and the further subsidiary bodies. Several committees also exist, for example Committee on Trade and Development, Committee on Balance of Payments restrictions and Committee on budget and finance.

ROLE OF WTO IN PROMOTING INTERNATIONAL TRADE AND INVESTMENT

⁴The World Trade Organisation is a multilateral organization which controls the trade relations between states. It has a unique tripod purpose. First, it seeks to lift the progressive trade liberalization and remove the restrictive barriers states on exportation and importation. Second, it is a negotiating forum which is referred as "rounds", where the member states meet to negotiate terms of trade liberalization treaties which are binding on all members. Lastly, the World Trade Organisation seeks to provide clear rules of engagement to ensure a more transparent and predictable international trade. The World Trade Organisation has some underlining principles

³ 4 G A Solanki, 'Globalisation and Role of WTO in Promoting Free International Trade' (2012) 3 (1)

⁴ Article xi WTO Establishment Agreement.

which defines and determines its policies and agreement. The most prominent of these principles are the Most Favored Nation and the National treatment principle. The Most Favored Nation clause is the foundational principle of the World Trade Organisation which provides for the nondiscrimination among states. Also under the National Treatment Principle, once the goods pass through the borders of the member states, the members are obliged to give equal treatment to those goods as though it is of their national origin. It is a measure to prevent states from the use of internal regulations to discriminate against imported goods which negatively affect the tariffs reductions.

The six key objectives of the World Trade Organisation includes: 1) setting and enforcing rules for the International Trade, 2) to provide forum for negotiation and monitoring, 3) resolving the trade disputes 4) to increase transparency in the decision making processes 5) to enable cooperate with other major international economic institutions and 6) to deliver help to developing countries to take full benefit of the global trading system. The success has resulted in the increase of the volume of world trade. It has been measured to amount up to 25% in the last 8 years.

⁵With more rounds of negotiations on going in various areas of trade and services, there has been a prospect of further increase. The State members continues to maintain economic openness. Since the China's accession to the World Trade Organisation in 2001, its simple average tariff dropped from about 40 % in 1985 to under 10 % currently. The growing openness the large developing markets has given room for new export opportunities for the countries which is a positive indication of the growth. Globalization has been accredited to have emerged and continued to expand courtesy of the World Trade Organisation regime which has encouraged free or less restricted trading in goods, services, technology and capital transfers. Various conditions which include trade barriers, piracy, financial assistance and more prominently violation of the Intellectual property rights which previously challenged the growth of international trade due to different trade rules and absence of reciprocity have been largely dealt with. World Trade Organisation provides a global path for states to meet and tackle these issues in order to device means to guarantee accepted solutions towards smooth transition to greater free trade regimes.

Despite the success of the World Trade Organisation in the encouraging free trade, it has been argued that this only favors to the developed countries only which possess the capital, material and technological ability to compete in the global economy. It is disappointing to note that the benefits

⁵ 13 J L Dunoff, 'Constitutional Conceits: The WTO's 'Constitution' and the Discipline of International Law' (2006) 17 (3)

of the above-mentioned 25% increase in the world trade are not evenly spread between the developed and developing member states. The developing countries only get to generate 0.03% of the world trade flows despite the population size. The developing countries would prefer, canvass and advocate for ‘free and fair’ trade rather than the ‘free’ trade as promoted by World Trade Organisation. Some of the developing countries are expected to remove the trade barriers and make their market accessible to developed countries, developed countries also have slightly made their market inaccessible to developing countries with the subtle use of tariff and non-tariff barriers. The United States government has continued to support its agricultural industry with the subsidy. Its implication is that agricultural products from the developing countries which do not get support from their government would find it very difficult to compete with the heavily subsidized United states agricultural products.

THE CHALLENGES FACED BY THE WORLD TRADE ORGANISATION

‘Deadlock in negotiations: The World Trade Organisation has failed to advance multilateral trade negotiations, demonstrated by the stalled Doha Development Agenda Talks. Member states often have different interests and priorities, making it difficult to reach consensus on antagonistic issues such as agriculture subsidies, intellectual property rights and market access.

Lack of Inclusivity and Development: Developing countries often feel disregarded in World Trade Organisation decision making processes, remarking a lack of voice and representation. They contend that rules of the World Trade Organisation excessively benefit developed countries and they have failed to address the specific needs and concerns of developing economies. This imbalance challenges the legitimacy of the organization and hinders efforts to promote sustainable development.

Dispute Settlement Mechanism Crisis: The World Trade Organisation settlement mechanism which was once considered the crown jewel of the organization has faced significant challenges. The Appellate body has been rendered unsuccessful due to the blocking of the appointments of new judges by some member states. This has led to interruptions in dispute resolution and raised questions about the World Trade Organization’s capability to enforce its rules efficiently.

⁶ On the economics of the emerging data-driven economy, see Ciuriak (2018c). On the implications for market concentration through the rise of “superstar” firms, see Autor et al. (2017) and Shivakumar (2017).

Emergence of New Trade Issues: The World Trade Organisation faces the challenges to address emerging trade issues that were not properly covered by the existing agreements. These include e-commerce, data localization and environmental sustainability. The World Trade Organization's rules have struggled to keep pace with technological evolution and varying patterns of global trade, which has led to calls to update and modernize the organization's order.

⁷Rising Protectionism: In the recent years, there has been a revival of protectionist measures which includes tariffs, quotas and trade barriers. This trend challenges the principles of free trade and is a threat to the stability of the global trading system. The World Trade Organisation has faced many challenges in urging member states to refrain from imposing restrictions on unilateral trade and to adhere to commitments under World Trade Organisation agreements.

If World Trade Organisation wants to address these challenges it will require collective action and political will from World Trade Organisation member states. Some of the crucial steps toward strengthening the World Trade Organisation are reforming the organization's governance structure, uplifting negotiations, restoring the functioning of the dispute settlement mechanism.

ENVISIONING WORLD TRADE ORGANISATION 2.0

The World Trade Organisation currently stands at an important moment in the history where it is facing unprecedented challenges and call for reforms. The evolving dynamics of the global economy demand a strengthened and adaptive World Trade Organisation which is capable of addressing the emerging trade issues. The steps needed to strengthen the World Trade Organisation are as follows: -

Decision making Mechanisms: There needs to flexibility in negotiation formats to explore the negotiation formats such as issue specific coalitions and plurilateral agreements. It also needs to simplify the bureaucratic procedures and reduce the administrative burden. Another step is to leverage technology to facilitate virtual negotiations and enhance collaboration among member states.

Integration of New Issues: The development of new rules and guidelines to govern E-commerce and digital trade. It also needs to integrate environmental considerations into WORLD TRADE

⁷ Alternative working titles in play include the "Trade-Related Aspects of Electronic Commerce" (TRAEC) and Agreement on Digital Trade (ADT)

ORGANISATION rules and agreements. Incorporating provisions to protect labor rights, promote fair wages and ensure protection of vulnerable workers.

Implementing World Trade Organisation 2.0: The World Trade Organisation should engage in constructive dialogue and negotiations to gather support for reform initiatives and overcome the resistance to change. It should secure funds and technical assistance from the developed countries and international organizations to support the capacity building efforts and also consult with civil society organizations, business groups to ensure that the interests of all the stakeholders are represented in the reform process.

New set of Rules: The transformation of the World Trade Organisation will demand the development of a new set of rules to deal with the E-commerce and digital trade. World trade organization members will also have to deal more effectively and efficiently with the trade policies and practices of China which includes how to better handle state owned enterprises and industrial subsidies.

Environmental Sustainability: The persistent issues around the climate change, environmental sustainability and efforts to align trade could help to challenge both climate change and strengthen the World Trade Organisation. World Trade Organisation have key roles to play in efforts to achieve the UN Sustainable Development Goals and the Paris Agreement climate goals.

Giving the weak a stronger voice: The small countries which are still in course of development would be weaker without the World Trade Organization and the differences in bargaining power are narrowed by agreed rules, coalition building and agreement decision making. Coalitions give developing countries a stronger voice in the negotiations. The resulting agreements also mean that all countries which includes the most powerful have to play according to the rules. The rule of law replaces might makes right.

In the last few years, developing countries have become more dynamic in all areas of the World Trade organization's work. They made sure that the development would be at the heart of Doha Round talks and submitted a record number of proposals on the agriculture and other subjects. They are always active in all World Trade Organisation councils and committees. They have also set up many coalitions so that their bargaining power increases. Some of these are mixed, some of these are developing country coalitions, working on the shared interests that cut across developed-developing country boundaries. During the mid 1990s, the 'Quad' – the European Union, United States, Japan and Canada, some of the largest traders were seen as the most powerful consensus

brokers. Now, any attempt to break a major deadlock has to contain at least some of the major emerging economies and representatives of various coalitions.

One important point about the World Trade Organisation is the practice of reaching the decisions by consensus. Every country needs to be convinced before agreement can be reached, whatever is proposed has to be refined until it is acceptable to everyone. All countries big or small, powerful or weak have to follow the same rules. There are some exceptions, delays or flexibilities for the poorer countries but they are still the same package of rules. The rules are the result of negotiations and consensus decisions and have been ratified in members parliaments. The negotiations that set up the World Trade Organisation, the Uruguay Round (1986-1994) was only possible because of a bargain. Many developed countries agreed to reform trade in textiles and agriculture, both issues were important for the developing countries. When all the rules are agreed, all the countries are equal under them. It also applies to the dispute settlement system which is similar to a court. This century developing countries have filed complaints in at least half of all legal disputes and the complaints are against both developed and developing countries. The smaller country would have been powerless without the World Trade Organisation to act against more powerful trading partners.

CONCLUSION

The evolution of the World Trade Organisation is evidence to the enduring importance of international cooperation in fostering economic growth and prosperity. In this paper we discussed the contribution of the World Trade Organisation in increasing the international trade and investment. It was achieved through torturous rounds of negotiation that recognized and promoted free trade among the nations. World Trade Organisation trade policies have advance economic globalization in the world. The successes notwithstanding, some of the challenges have also been identified with the World Trade Organisation system. It is recommended that World Trade Organisation must not only be concerned with promoting free trade but also fair trade. It requires that the peculiarities of the developing nations must be considered in negotiation rounds before reaching agreements as it would enable the developing nations to survive the highly competitive global market.