

WORLD TRADE ORGANIZATION: *Guiding Principles and Agreements*

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Abstract: In the context of many countries of the world going back to protectionist ways, revisiting the guiding principles and agreements of the World Trade Organization (WTO) has become imperative. The World Trade Organization was formulated to stimulate and streamline international trade among various countries of the world. The current paper reviews the agreements reached by various member countries of WTO for encouraging trade.

The paper has been divided into seven sections. The first section introduces the issues and concerns faced in the area of international trade across the world. The second section briefly points out the propositions of some important theories of international trade. The third section describes the formation of GATT and its limitations which resulted in the formation of WTO. The fourth section illustrates the formation of WTO, its objectives and functions. The next section reviews the guiding principles of WTO. The sixth section gives an account of WTO's major agreements. The final section demonstrates some of the concerns about the functioning of WTO followed by the concluding statement.

Index Terms: World Trade Organization, Agreements of WTO, Free Trade, Protection

I. INTRODUCTION:

Various nations of the world have started re-analyzing the claimed benefits of international trade. The wave of globalization which had taken momentum in 1980s and 90s is perhaps slowing down. With the American president asserting his desire to go any length to protect the American industry from the cheaper imports, it is imperative to revisit the role and agreements of World Trade Organization. The protectionist instincts of various nations may reduce the flow of international trade and thereby reduce the overall welfare. In this context, the current paper reviews various guiding principles and agreements of WTO.

II. INTERNATIONAL TRADE: THEORETICAL FRAMEWORK

- Mercantilism- A philosophy prevailing during the 5th century proposed that trade was 'zero-sum-game'. One country's gain equals another country's loss, so that the net change in wealth or benefits among the participants is zero. Clearly, this approach was against free trade and recommended nations to discourage imports.
- However, advent of economists like Adam Smith, David Ricardo and Gottfried Haberler proved that free trade is mutually beneficial to all the trading partners. It was scientifically proved that under the conditions of absolute cost difference (Adam Smith) and comparative cost difference (David Ricardo), trade is mutually beneficial to both the trading partners.

III. GENERAL AGREEMENT ON TARIFFS AND TRADE:

Under the influence of various classical and modern theories of international trade, the countries across the world decided to establish an organization which would ensure free flow of international trade. This resulted in formation of General Agreement on Tariffs and Trade (GATT) in 1948. It provided the rules for much of world trade for 47 years, from 1948 to 1994.

Eight rounds of multilateral negotiations known as "trade-rounds" held under the banner of GATT resulted in substantial liberalization of international trade.

Although, GATT did a good job to enhance free trade, it had certain weaknesses. The GATT started losing its relevance by 1980s because

1. Intellectual property rights and trade in services were not covered by GAT
2. The ambiguities in the multilateral system could be heavily exploited
3. Efforts at liberalizing agricultural trade were not successful
4. There were inadequacies in institutional structure and dispute settlement system
5. It was not a treaty and therefore terms of GATT were binding only insofar as they are not incoherent with a nation's domestic rules.

IV. THE URUGUAY ROUND AND THE ESTABLISHMENT OF WTO:

The need for a formal international organization which was more powerful and comprehensive was felt by many countries by late 1980s. Having settled the most ambitious negotiating agenda that covered virtually every outstanding trade policy issue, the Uruguay Round brought about the biggest reform of the world's trading system.

The Round started in Punta del Este in Uruguay in September 1986 and was scheduled to be completed by December 1990. However, due to many differences and especially due to heated controversies over agriculture, no consensus was arrived at. Finally, in December 1993, the Uruguay Round, the eighth and the most ambitious and largest ever round of multilateral trade negotiations in which 123 countries participated, was completed after seven years of elaborate negotiations. The agreement was signed by most countries on April 15, 1994, and took effect on July 1, 1995. It also marked the birth of the World Trade Organization (WTO) which is a single institutional framework encompassing the GATT, as modified by the Uruguay Round.

The objectives of the WTO Agreements as acknowledged in the preamble of the Agreement creating the World Trade Organization, include

1. Raising Standards of Living
2. Ensuring Full Employment
3. A large and steadily growing volume of real income and effective demand
4. Expanding the production of and trade in goods and services
5. To facilitate the flow of international trade smoothly, freely, fairly and predictably.

The WTO was supposed to perform its functions

- i. by acting as a forum for trade negotiations among member governments
- ii. administering trade agreements
- iii. reviewing national trade policies assisting developing countries in trade policy issues
- iv. through technical assistance and training programmes and cooperating with other international organizations

The WTO accounting for about 95% of world trade currently has 164 members, of which 117 are developing countries or separate customs territories accounting for about 95% of world trade. Around 25 others are negotiating membership. The WTO's agreements have been ratified in all members' parliaments.

V. THE GUIDING PRINCIPLES OF WORLD TRADE ORGANIZATION (WTO)

Right from its inception, the WTO has been driven by a number of fundamental principles which are the foundations of the multilateral trading system. Following are the major guiding principles:

- 1. Trade without discrimination:** Most-favoured-nation (MFN): Under the WTO agreements, countries cannot normally discriminate between their trading partners. If a country lowers a trade barrier or opens up a market, it has to do so for the same goods or services from all other WTO members. Under strict conditions, various permitted exceptions are allowed. For example; countries may enter into free trade agreements and trading may be done within the group discriminating against goods from outside; a country can raise barriers against products that are considered to be traded unfairly from specific countries; or they may give special market access to developing countries.
- 2. The National Treatment Principle (NTP):** A country should not discriminate between its own and foreign products, services or nationals. For instance, once imported apples reach Indian market, they cannot be discriminated against and should be treated at par with locally produced apples.
- 3. Freer trade:** Lowering trade barriers for opening up markets is one of the most obvious means of encouraging trade. But by the 1980s, the negotiations had expanded to cover non-tariff barriers on goods, and to the new areas such as services and intellectual property. Since these require adjustments, the WTO agreements permit countries to bring in changes gradually, through "progressive liberalization". Developing countries are generally given longer time to conform to their obligations.
- 4. Predictability:** Investments will be encouraged only if the business environment is stable and predictable. The foreign companies, investors and governments should be confident that the trade barriers will not be raised arbitrarily. This is achieved through 'binding' tariff rates. A country can change its bindings, but only after negotiating with its trading partners, which could mean compensating them for loss of trade.
- 5. Principle of general prohibition of quantitative restrictions:** One reason for this prohibition is that quantitative restrictions are considered to have a greater protective effect than tariff measures and are more likely to distort the free flow of trade.
- 6. Greater competitiveness:** This is to be achieved by discouraging "unfair" practices such as export subsidies, dumping etc. The rules try to establish what is fair or unfair, and how governments can take action, especially by charging additional import duties intended to compensate for injury caused by unfair trade.
- 7. Tariffs as legitimate measures for the protection of domestic industries:** The imposition of tariffs should be the only method of protection, and tariff rates for individual items should be gradually reduced through negotiation 'on a reciprocal and

mutually advantageous' basis. Member countries bind themselves to maximum rates and the imposition of tariffs beyond such maximum rates (bound rates) or the unilateral raise in bound rates is banned.

8. Transparency in Decision Making: The WTO insists that any decision by members in the sphere of trade or in respect of matters affecting trade should be transparent and verifiable. Such changes in matters of trade or of trade related rules have to be without delay notified to all the trading partners. In case of any opposition to such changes, they should be appropriately addressed and any loss occurring to the affected members should be suitably compensated for.

9. Progressive Liberalization: Many trade issues of a controversial nature similar to labour standards, non-agricultural market access, etc. on which there was general disagreement among trading partners were left unsettled during the Uruguay Round. These are to be liberalized during consecutive rounds of discussion.

10. Market Access: The WTO aims to increase world trade by enhancing market access by converting all non-tariff barriers into tariffs which are subject to country specific limits. Further, in major multilateral agreements like the Agreement on Agriculture (AOA), specific targets have been specified for ensuring market access.

11. Special privileges to less developed countries: With majority of WTO members being developing countries and countries in transition to market economies, the WTO deliberations favour less developed countries by giving them greater flexibility, special privileges and permission to phase out the transition period. Also, these countries are granted **greater** transition periods to make adjustments to the not so familiar and intricate WTO provisions.

12. Protection of Health & Environment: The WTO's agreements support measures to protect not only the environment but also human, animal as well as plant health with the stipulation that such measures should be non-discriminatory and that members should not employ environmental protection measures as a **means of disguising** protectionist policies.

13. A transparent, effective and verifiable dispute settlement mechanism: In case of an unresolved dispute, the dispute can be referred to the WTO which will pursue a carefully mapped out, stage-by-stage procedure that includes a judgment by a panel of experts, and the opportunity to appeal the ruling on legal grounds. The decisions of the dispute settlement body are final and binding.

VI. OVERVIEW OF THE WTO AGREEMENTS:

1. Agreement on Agriculture aims at strengthening GATT disciplines and improving agricultural trade. It includes specific and binding commitments made by WTO Member governments in the three areas of market access, domestic support and export subsidies.

2. Agreement on the Application of Sanitary and Phytosanitary (SPS): This agreement establishes multilateral frameworks for the planning, adoption and implementation of sanitary and phytosanitary measures to prevent such measures from being used for arbitrary or unjustifiable discrimination or for disguised restraint on international trade and to minimize their adverse effects on trade.

3. Agreement on Textiles and Clothing: ATC replaced the Multi-Fiber Arrangement (MFA) which was prevalent since 1974 which entailed import protection policies. ATC provides that textile trade should be deregulated by gradually integrating it into GATT disciplines over a 10-year transition period.

4. Agreement on Technical Barriers to Trade (TBT): It aims to prevent standards and conformity assessment systems from becoming unnecessary trade barriers by securing their transparency and harmonization with international standards. Often excessive standards or misuse of standards in respect of manufactured goods and safety/environment regulations act as trade barriers.

5. Agreement on Trade-Related Investment Measures (TRIMs) expands disciplines governing investment measures in relation to cross-border investments by stipulating that countries receiving foreign investments shall not impose investment measures such as requirements, conditions and restrictions inconsistent with the provisions of the principle of national treatment and general elimination of quantitative restrictions. For example: measures such as **local content requirements** and **trade balancing requirements** should not be applied on investing corporations.

6. Anti-Dumping Agreement seeks to tighten and codify disciplines for calculating dumping margins and conducting dumping investigations, etc. in order to prevent anti-dumping measures from being abused or misused to protect domestic industries.

7. Customs Valuation Agreement specifies rules for more consistent and reliable customs valuation and aims to harmonize customs valuation systems on an international basis by eliminating arbitrary valuation systems.

8. Agreement on Pre-shipment Inspection (PSI) intends to secure transparency of pre-shipment inspection wherein a company designated by the importing country conducts inspection of the quality, volume, price, tariff classification, customs valuation, etc. of merchandise in the territory of the exporting country on behalf of the importing country's custom office and issues certificates. The agreement also provides for a mechanism for the solution of disputes between PSI agencies and exporters.

9. Agreement on Rules of Origin provides for the harmonization of rules of origin so that non-preferential commercial policy instruments can be applied. It also provides for dispute settlement procedures and creates the rules of origin committee.

10. Agreement on Import Licensing Procedures relates to simplification of administrative procedures and to ensure their fair operation so that import licensing procedures of different countries may not act as trade barriers.

11. Agreement on Subsidies and Countervailing Measures aims to clarify definitions of subsidies, **strengthen conditions under which subsidy can be given** and to strengthen and clarify procedures for adopting countervailing tariffs.

12. Agreement on Safeguards clarify disciplines for requirements and procedures for imposing safeguards and related measures which are emergency measures to restrict imports in the event of a sudden surge in imports.

13. General Agreement on Trade in Services (GATS): This agreement provides the general obligations regarding trade in services, such as most-favored-nation treatment and transparency. In addition, it enumerates that in the service sector for which it has made commitments; a member country cannot maintain or introduce market access restriction measures and discriminatory measures that are severer than those that were committed during the negotiations.

14. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS): This agreement stipulates most-favored-nation treatment and national treatment for intellectual properties, such as copyright, trademarks, geographical indications, industrial designs, patents, layout designs etc. In addition, it requires member countries to maintain high levels of intellectual property protection and to administer a system of enforcement of such rights. It also stipulates procedures for the settlement of disputes related to the agreement.

15. Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) provides the common rules and procedures for the settlement of disputes related to the WTO agreements. It aims to strengthen dispute settlement procedures by prohibiting unilateral measures, establishing dispute settlement panels whose reports are automatically adopted, setting time frames for dispute settlement, establishing the Appellate Body etc.

16. Trade Policy Review Mechanism (TPRM) provides the procedures for the trade policy review mechanism to conduct periodical reviews of members' trade policies and practices conducted by the Trade Policy Review Body (TPRB).

17. Plurilateral Trade Agreements:

Agreement on Trade in Civil Aircraft: Negotiations were ongoing alongside the Uruguay Round to revise the Civil Aircraft Agreement **encouraging free trade of civil aircrafts and its components** (an agreement from the Tokyo Round) and to strengthen disciplines on subsidies. However, no agreement has yet been reached and the agreement reached under the Tokyo Round continues.

Agreement on Government Procurement: This agreement requires national treatment and non-discriminatory treatment in the area of **government procurement** and calls for fair and transparent procurement procedures. The agreement covers the procurement of services (in addition to goods) and the procurement by sub-central government entities and government-related agencies (in addition to central government).

All the above mentioned agreements entered into by the members are not static; they are renegotiated from time to time and new agreements evolve from negotiations. Many are now being negotiated under the Doha Development Agenda, launched by WTO trade ministers in Doha, Qatar, in November 2001.

The Doha Round

The Doha Round, formally the Doha Development Agenda, which is the ninth round since the Second World War was officially launched at the WTO's Fourth Ministerial Conference in Doha, Qatar, in November 2001. The round seeks to accomplish major modifications of the international trading system through lower trade barriers and revised trade rules. The negotiations include 20 areas of trade, including agriculture, services trade, market access for nonagricultural products, and certain intellectual property issues. The most controversial topic in the yet to conclude Doha Agenda has been agriculture trade.

VII. THE WTO: A FEW CONCERNS

In recent years, apprehensions have been raised in respect of the WTO and its ability to maintain and extend a system of liberal world trade. The major issues are:

- (i) The progress of multilateral negotiations on trade liberalization is very slow and the requirement of consensus among all members acts as a constraint and creates rigidity in the system. As a result, countries find regionalism a possible alternative.
- (ii) Moreover, contemporary trade barriers are much more complex and difficult to negotiate in a multilateral forum. Logically, these issues are found easier to discuss on bilateral or regional level.
- (iii) While multilateral efforts have effectively reduced tariffs on industrial goods, the achievement in liberalizing trade in agriculture, textiles, and apparel, and in many other areas of international commerce has been negligible.
- (iv) Most countries, particularly developing countries are dissatisfied with the WTO because, in practice, most of the promises of the Uruguay Round agreement to expand global trade has not materialized.
- (v) The developing countries have raised a number of concerns and a few are presented here:

✓ The developing countries contend that the real expansion of trade in the three key areas of agriculture, textiles and services has been dismal.

✓ Protectionism and lack of willingness among developed countries to provide market access on a multilateral basis has driven many developing countries to seek regional alternatives.

CONCLUSION: Protectionist policies adopted by various nations of the world would reduce the overall welfare. The WTO needs to address the issue of protectionism more pro-actively. The member countries should also maintain the sanctity of the WTO agreements. The problems arising out of international trade should no doubt be addressed. However, this should not result in dampening the spirit of WTO's binding agreements.

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