

The World Trade Organization and Ethical Dimensions

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Abstract: *The World Trade Organization (WTO) is the largest, most powerful international organization dealing with global rules of trade among nations. It was formed 1995 following the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade (GATT), the previous multilateral trading system established in 1948. Members of the WTO must abide by negotiated trade rules that are guided by four basic principles (1) most favoured nations (this ensures non-discrimination at the border: favour one, favour all), (2) national treatment (treating both domestic and foreign goods equally), (3) tariffication (reduction in trade barriers through reducing tariff and non-tariff barriers in a gradual manner and (4) transparency (predictability through binding obligations and transparency). The purpose of WTO is to administer multilateral trade treaties, especially Agreement of Agriculture (AoA), Non-Agriculture Market Access (NAMA), General Agreement on Trade in Services (GATS), Dispute Settlement Mechanism in the WTO, Trade Related Intellectual Property Rights (TRIPS). The objective of the study is the trade relations maintained by WTO rules may properly be assessed in the light of the broad requirements of ethics. Trade liberalization clearly brings many economic and political benefits, but many argue that the WTO has had limited success in certain areas. Many argue that the WTO has failed to confront ethical issues. The basic commitment of the WTO is to a globally uniform system of liberalized trade. But the WTO's policy of tolerating developed-world protectionism against developing countries is seriously unjust. There are serious concerns that poorer countries are marginalized in WTO decision-making procedures. This is in part due to inequalities in resources. The WTO procedural requirement of consensus has*

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also been criticized as a means of ensuring that the interests of underdeveloped countries cannot be pursued if this involves burdening the developed world. Agreement on Trade- Related Aspects of Intellectual Property Rights (TRIPS) has been met with considerable criticism. TRIPS governs various kinds of intellectual Property. Prior to its ratification there was significant disagreement about TRIPS among developed countries- major exporters of intellectual property- and developing countries- who are primarily importers of intellectual property. The WTO's failure to eliminate developed-world protectionism against developing countries is a clear case of injustice. It's also critics have argued that the WTO is unethical for several reasons that the WTO places economic considerations ahead to concerns for the environment or human rights; that the WTO takes power away from individual nations; that the WTO is undemocratic; and that the WTO generally increases inequality- its makes the rich richer and leaves the world's poorest people worse off than they would otherwise have been. Developing countries have had difficulties using the dispute settlement process to assert their formal rights and ensuring that they are treated fairly within the WTO. This study recommended, one step that has been taken to assist poor countries in asserting their rights in WTO is the creation of the Advisory Centre on WTO Law, WTO could be reformed to help protect the rights of developing states would be to alter the remedies that are available after a successful claim is brought through the dispute-settlement process and the virtue of proposals that would allow states whose rights have been violated to auction their right to take countermeasures. There is a need for an ethics code approved and adopted by all WTO members.

Key Words: *World Trade Organization, Ethics, GATS, Dispute Settlement, TRIPS.*

1. Introduction

The World Trade Organization (WTO) attempts to promote free and fair trade – an increasingly difficult task, which it undertakes with varying success. The WTO was established in 1995 when it replaced the General Agreement on Tariffs and Trade (GATT). It has its headquarters in Geneva, Switzerland and, by 2012, had 153 member countries, including China, which was the last major nation to join. The purpose of the WTO is to promote free and fair trade through multilateral talks and negotiations, and to arbitrate between countries that are in dispute. Ethics is more applied to practice, to the rules of day to day practice. The domain of ethics is feeling, acting and interaction with the others. Members of the WTO must abide by negotiated trade rules that are guided by four basic principles (1)

most favoured nations (this ensures non-discrimination at the border: favour one, favour all), (2) national treatment (treating both domestic and foreign goods equally), (3) tariffication (reduction in trade barriers through reducing tariff and non-tariff barriers in a gradual manner and (4) transparency (predictability through binding obligations and transparency).

The basic commitment of the WTO is to a globally uniform system of liberalized trade. According to neoclassical economic theory, trade liberalization should increase global economic efficiency and lead to increases in aggregate production and consumption. The basic idea is that international competition provides incentives for efficient production. Sometimes the efficiency argument in favor of liberalized trade is dismissed as merely an appeal to an economic good. But it cannot be so easily dismissed if what is at stake is the rate at which a country develops economically. Hence, there are reasons to believe that the basic commitment of the WTO to trade liberalization might be fundamentally unjust. This is the case if tariff reduction in the developing world will impoverish the already poor for the foreseeable future, and if protecting infant industries is historically the most assured path to development. In any case, the WTO's policy of tolerating developed-world protectionism against underdeveloped countries is seriously unjust.

Even if there are significant injustices in WTO rules, underdeveloped countries that join the WTO are not necessarily implicated in those injustices. The WTO's toleration of trade tariffs in the developed world takes us away from a discussion of basic principle and into a discussion of practice. In this section consider three criticisms of WTO practice.

First, there are serious concerns that poorer countries are marginalized in WTO decision-making procedures. This is in part due to inequalities in resources. Poor countries participate little in the formulation and implementation of the new rules that govern global markets. The 1994 Uruguay Round of GATT shows the difficulties facing small and poor countries. Of the 29 least developed countries in the WTO, only 12 had missions in Geneva, most staffed with a handful of people to cover the gamut of UN work. . . . Many small and poor countries had difficulty even ensuring representation at meetings. (UNDP 1999, 34–35) A straightforward solution to this problem would be for the WTO to subsidize the participation of the least-developed countries (Shukla 2002, 281). The demand that participation of the least-developed countries be subsidized is fully consistent with the Marrakesh Agreement Establishing the WTO, which recognized “that there is need for positive efforts designed to ensure that developing countries, and

especially the least developed amongst them, secure a share in the growth in international trade commensurate with the needs of their economic development.”

The WTO procedural requirement of consensus has also been criticized as a means of ensuring that the interests of underdeveloped countries cannot be pursued if this involves burdening the developed world (Bello 2001, 28–29). This idea is drawn from Thompson’s discussion of class interests in the law in Thompson 1975, 263. Brazil’s victorious case against U.S. protectionism of cotton evinces movement in this direction.

Since determinations of whether products are discriminated against affects employment opportunities, the principle of non-discrimination would seem to serve the purpose of reducing discrimination against persons on the basis of their national origin.

Finally, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) has been met with considerable criticism. Consisting of seven major parts, TRIPS governs various kinds of intellectual property. Prior to its ratification there was significant disagreement about TRIPS among developed countries. Major exporters of intellectual property and underdeveloped countries who are primarily importers of intellectual property (Hoekman and Kostecki 1995, 152). U.S. pharmaceutical, entertainment, and information industries were largely responsible for getting TRIPS on the negotiating agenda, and developing countries many of which had little or no legal protection for intellectual property were concerned that an intellectual-property-rights regime would make important goods, such as medicine, prohibitively expensive to their citizens in need (Hoekman and Kostecki 1995, 156).

2. World Trade Organization and Ethics

The WTO’s failure to eliminate developed-world protectionism against underdeveloped countries is a clear case of injustice. Multilateral reduction of protectionist policies that do not allow provision for less-developed countries to protect vulnerable producers and infant industries are also unjust, if the harms that result are not compensated. At the level of policy, the failure of the WTO to subsidize the participation of underdeveloped countries casts serious doubts on its procedural fairness; and if the WTO does not allow for policies to protect the environment, workers, and public health, its practices will be further at fault. These criticisms do not, however, entail that an alternative without multilateral rules would it is by no means clear that patents are required for there to be

sufficient production incentives. Chang (2002, 2) reminds us that “Switzerland became one of the world’s technological leaders in the nineteenth century without a patent law.” There is good reason to believe that the elimination of the multilateral trading system would be even worse for egalitarian justice, since it would leave weak countries even more vulnerable to the predatory trading practices of the rich and strong countries whose representatives invariably fail to take seriously the view that justice requires attention to the interests of the disadvantaged.

The WTO is the institution that regulates international trade and with aims related to increasing conditions and standards of living, full employment and increasing real income and effective demand levels. This organization has been at the centre of the controversy between critics and defenders of globalization and some consider that its role should be more active in protecting the interests of developing countries and environmental and social issues. The Seattle conference in December 1999 provoked heated reactions and demonstrations. The WTO’s core purpose was called into question. The debate extended to criticism of globalization and neoliberalism. The criticism was basically all about the lack of ethics in business and international relations. Two years later, the Doha conference opened up a precedent, a new round of negotiations with especial attention paid to LDC interests. Particular regard was paid to issues related to trade in primary sector products, more affordable pharmaceutical pricing in the poorest countries and also supporting the implementation of LDC trade policies, among other issues. However, there are other priority issues that were postponed for discussion at the next round which include competition policy, labour and the environment, among others. Regarding competition policy, its implementation in the WTO receives reservations by some countries, particularly certain Asian countries, which fear that large developed country multinationals would enter their domestic markets and create rising difficulties for its small and medium enterprises. Concerning employment and environmental issues, there is some reluctance among LDCs to accept any imposition of working patterns and environmental standards.

According to Elliot (2003), the establishment of trade unions can result in disinvestment by international companies that sought out those countries due to the supply of cheap labour, where not child labour. Moreover, environmental standards can serve as mere protectionist pretexts given the weaker bargaining power of the poorest countries. There is a risk of the environmental exploitation of the least developed countries by the most powerful once inhibited on their own territory by environmental laws. Therefore, there is a clear need for greater

integration and coherence between the international institutions and for the improvement of coordination between national institutions within the process of world development and in responding to the challenges of globalization. In short, and once again, there is a need for an ethics code approved and adopted by all WTO members.

The WTO has been the target of criticism regarding its lack of democracy, partiality, and lack of concern over matters other than trade: environment, human rights and animal welfare. On environmental issues, the WTO demands that countries do not use the pretext of environmental protectionism to promote their own industries. Hence, it runs the product / process rule, which consists of considering bans on entries of similar foreign products as national protectionism, regardless of the production process. For example, the WTO surveyed EU policies prohibiting the entry of animal skins acquired by trapping, cosmetics resulting from animal tests and the entry of beef produced with hormones.

Singer (2004) presents an example of what happened in South Africa to justify the WTO's disinterest in human rights. Faced with a "health emergency" characterized by 20% of the population, equivalent to 4 million people, infected by the AIDS virus, the government decided to permit the manufacture of medicines in South Africa, with the aim of offering lower prices to its population. Given this, the U.S. reacted immediately, threatening trade sanctions to protect the intellectual property rights of North American manufacturers, only dropping the threats in the face of public opinion pressure. Regarding democracy, at the WTO, and despite organizational decisions being taken unanimously, the bargaining power of LDCs is lower than that of other wealthier countries, which weakens the decision-making.

Singer (2004) also argues that the WTO should be more active regarding targets beyond the most basic commitment towards establishing free trade and may even help the least developed countries in defense of a global ethic. The existence of acts of such magnitude harming human dignity requires a universal law against genocide and crimes against humanity (enslavement, torture, etc.) The perpetrators of these crimes must be punished regardless of the nationality of offenders and victims, irrespective of national laws in effect where the crimes were committed. (Marrakesh Agreement 1994). The WTO procedural requirement of consensus has also been criticized as a means of ensuring that the interests of underdeveloped countries cannot be pursued if this involves burdening the developed world (Bello 2001, 28–29). Although the criticism has some-

The purpose of WTO is to administer multilateral trade treaties, especially Agreement of Agriculture (AoA), Non-Agriculture Market Access (NAMA), General Agreement on Trade in Services (GATS), Dispute Settlement Mechanism in the WTO.

The WTO itself claims that, unlike GATT that preceded it, its rules of trade have been worked out by the direct involvement of all countries, and not just a few powerful ones. Trade liberalisation clearly brings many economic and political benefits, but many argue that the WTO has had limited success in certain areas. The main criticisms are:

Critics argue that the number of trade disputes settled through the WTO's DSU (Dispute Settlement Understanding) is inadequate given the number of disputes. However, the number of settlements did rise from 20 in 1990 to 157 in 2007. But still, by January 2008, only 136 of the 370 cases had reached the full panel process.

Many argue that the WTO has failed to confront ethical issues, such as the use of child labour and poor working conditions in developing economies.

Similarly, many argue that it has failed to tackle environmental issues, such as the depletion of global fish stocks, deforestation, and Climate change.

Critics also complain that the WTO takes too long to arbitrate and settle disputes. For example, it can take over five years from the initial receipt of a complaint from one member to the final panel ruling.

Critics also argue that the WTO has an inbuilt bias favouring developed and powerful nations and trading blocs such as the USA and the EU, and operating against weaker, developing ones.

Despite the WTO operating as a multilateral organisation, many member countries and trading blocs favour bilateral discussions with partners or competitors. This is because bilateral negotiations can be fully focussed and relatively quick to complete. The result is that many countries prefer to bypass the WTO process, and deal directly with other countries. The failure of the most recent round of WTO negotiations, the Doha round, is widely regarded as evidence of the inherent problems of multilateral discussions. While the WTO is likely to argue that it encourages such agreements when they do not have a negative impact on third parties, it is very difficult to find cases where third-party countries are not, at least indirectly, negatively affected by a specific bilateral agreement.

The creation of the World Trade Organization (WTO) was a major innovation, because it intended to implement a legal framework of international trade law in which there would be no room for unfair unilateral commercial actions.

It is particularly poorer countries and their peoples who are in need of an equitable, rules-based system in which they can participate in global trade on the basis of the highest achievable equality of opportunity.

The mandate of the Fourth WTO Ministerial Meeting in Doha is precisely that of giving special attention to the development needs of the poor and the WTO is to serve this mandate. Thus, on the occasion of this Fifth WTO Ministerial Conference, which is to be a mid-term review, the Holy See, as an Observer member, wants to advance some reflections on the institutional links between trade rules and human development.

Trade rules, notwithstanding their technical appearance, have a political and social nature, with deep and lasting consequences in the life of humanity. The Holy See, without entering into technical and specialized matters, wishes to provide some ethical guidelines inspired by the fundamental and permanent values of the international community and which ought to guide all its activities, including trade.

An ethical discernment in the context of international trade must be based upon the principle of the inalienable value of the human person, source of all human rights and every social order. The human being must always be an end and not a means, a subject and not an object, not a commodity of trade.

When placed at the service of human development, the international trade system works for people - persons and communities.

Trade should benefit people, not just markets and economies. Economic freedom is only one element of human freedom and the economy is only one dimension of the whole of human activity.

Economic life cannot be absolutized. Economic activities must be pursued within a broader context of human development, the promotion of human rights and especially overarching policies and targets aimed at eliminating poverty.

The multilateral trade system will have been truly accomplished when poor countries are able to integrate fully into the international community. This necessitates policies that foster an authentic human development and assist poor countries in capacity building. This development cannot be restricted to economic growth alone since to be authentic human development, every man and woman,

and the whole person, must be developed. Any efficient international trading system cannot overlook these human realities and must place authentic human development at its very core.

The world trade regime should support the development agenda of poor countries. Nations will have to identify their own priorities while recognizing needs according to the particular conditions of their people, their geographical setting and cultural traditions. When multilateral trade rules intrude into the domestic domain, the autonomy of a government is reduced. Prerequisites of an institutional and economic type are essential to convert any better market accessibility into improved progress in human development.

The integration of the poorer countries into an equitable world trade system is in the interest of all, inclusiveness is both a moral and an economic value since it promotes justice as well as a long-term economic efficiency and authentic human development. No model of economic growth or international trade that neglects social justice or marginalizes human groups and human development is sustainable in the long-term, even from the purely economic point of view.

Along with the economic issues involved in international trade, there are sometimes ethical questions which arise. When people look to the effect of international trade, they usually consider a particular policy or how a particular trade policy affects the growth or productivity of an economy or industry, or of a country or region. It is, however, important to realise that trade is a fundamental part of people's everyday economic wellbeing and, as such, the operation of international trade can have a serious effect on people's lives.

Some people would assert that if a trade policy results in the greatest good for the greatest number (that is, if everyone benefits) it is a good policy. Others feel, however, that people in developing countries in particular are vulnerable to being exploited, as they need to work and may well be willing to work for TNCs for less than adequate wages and under less than fair conditions.

Developing regions, like South-East Asia and Africa, look to international trade as a potential solution to their economic problems. Although development assistance and foreign aid are important to these regions, governments do not want to rely on foreign aid for the provision of basic needs. Developing countries generally want a 'fairer' system which lets them trade with wealthier nations and earn more money, so that their own economies can grow. This would then assist developing countries in funding their own infrastructure, education and healthcare.

As simple as this might sound, it does not seem to be happening. In fact, regions like Africa are earning less and less. In 1980 Africa had a 6 percent share of world trade, but by 2002 this had dropped to just 2 percent, despite the fact that Africa has 12 percent of the world's population.

Advocacy groups have argued that if Africa were able to regain an additional 1 percent share of global trade, it could earn \$70 billion more in exports each year. This would be several times more than the African region generally receives in foreign aid.

In general, wealthier countries generally seek to protect their own markets and agricultural sectors against cheap exports from poorer countries. This can be seen as being overly restrictive on poorer countries. Ghana, for example, can export raw cocoa to Europe without incurring any tariffs. If they process the cocoa a 25 percent tariff is imposed on the processed cocoa, making it considerably less attractive to foreign buyers. It is argued that the processing of the cocoa (tinning, roasting, labelling) would help a country like Ghana earn more money and develop its manufacturing base, which would in turn help its economy to grow.

Whether this is an unfair or unethical situation is for each individual to decide. Organisations like the World Trade Organisation (WTO), however, are often criticised for implementing and enforcing trade policies like these. The WTO is responsible for the rules of international trade. Its critics have argued that the WTO is unethical for several reasons. Some of the stronger criticisms include:

That the WTO places economic considerations ahead of concerns for the environment or human rights.

That the WTO takes power away from individual nations.

That the WTO is undemocratic.

That the WTO generally increases inequality - it makes the rich richer and leaves the world's poorest people worse off than they would otherwise have been.

It should be noted that many people and governments support the operation of the WTO and do not believe that it presents an ethical problem in any way.

Protectionism in trade policy is generally seen to have an ethical dimension, even when it does not involve poverty-stricken regions like Africa. Protectionism is the policy of restricting trade between nations through methods such as high tariffs (taxes) on imported goods, putting quotas on imports, or any number of other restrictive policies a government might put in place to discourage people from buying imports.

If restrictions on trade, especially imports, are relaxed (through a free trade agreement or some similar policy), then there is the issue of whether domestic jobs will be lost. This might occur as the domestic manufacturers cannot compete with the cheaper labour and material costs in foreign nations and will be driven out of business or forced to outsource their own production to foreign countries. This can result in a loss of income for domestic workers, which is itself bad for the domestic economy, as it means people do not spend money on goods and services they otherwise would. Social and political problems can also result if unemployment and even poverty become widespread.

The World Trade Organization (WTO) is the largest, most powerful international organization dealing with global rules of trade among nations. It was formed in 1995 following the so-called Uruguay Round of negotiations under the General Agreement on Tariffs and Trade (GATT), the previous multilateral trading system established in 1948. Whereas GATT was primarily concerned with trade in goods, the WTO covers trade in goods and services, banking and finance, intellectual property, dispute settlement, and trade policy reviews. The purpose of the WTO is to provide a negotiating forum for nations to form agreements to lower trade barriers to ensure that trade flows as freely, fairly, and predictably as possible. The WTO regulates trade by administering and negotiating trade agreements, resolving trade disputes, reviewing national trade policies, providing technical assistance and training programs in developing nations, and cooperating with other international organizations. All WTO trade agreements are the result of a consensus among representatives of member governments, ratified by the parliaments of the participating nations. These binding agreements guarantee nations their trade rights and responsibilities. For the 153 member nations, the WTO is the most influential institution of international commerce.

Under WTO agreements, countries should neither discriminate among their trading partners nor should they discriminate between foreign and domestic products and services. Every government should be given “most-favoured-nation” status whereby any favour granted to one nation must be granted to every other nation, thus ensuring that all trade partners be treated equally. The WTO aims to make trade more free and more fair by lowering trade barriers such as customs duties (tariffs), eliminating import bans or quotas, and limiting the nontariff trade barriers that nations may implement and enforce, such as domestic laws regulating product standards and liability, environmental protections, use of tax revenues for public services, and other domestic laws regulating investment and trade. The WTO limits the nature of tariffs a nation may impose, as well as what kind of nontariff barriers to trade nations may implement and enforce.

Through the WTO Dispute Settlement Process, nations can challenge each other's laws on behalf of their commercial interests if they believe barriers to trade exist. If member nations do not conform to WTO regulations they face possible economic sanctions.

Six main agreements comprise the WTO: the umbrella agreement establishing the WTO, the General Agreement on Tariffs and Trade, the General Agreement on Trade in Services (GATS), and the agreements on Trade-Related Aspects of Intellectual Property (TRIPS), Dispute Settlement, and Trade Policy Reviews. The highest authority is the Ministerial Conference, where delegates from member nations meet every two years to reach consensus on multilateral agreements. The second level of authority, responsible for decisions between Ministerial Conferences, has three branches: the Dispute Settlement Body, the Trade Policy Review Body, and the General Council. The General Council is divided into three more councils, each handling a different area of trade: the Goods Council, the Services Council, and the TRIPS Council. Numerous specialized committees and working groups work on the details of individual agreements, as well as issues relating to the environment, development, finance, and regional trade agreements. The WTO Secretariat is based in Geneva, Switzerland, headed by a director-general with limited authority. The Secretariat's main duties include providing legal and technical support to the various councils and ministerial conferences, conducting research, and performing public affairs activities.

Conclusion

The WTO is the institution that regulates international trade and with aims related to increasing conditions and standard of living, full employment and increasing real income and effective demand levels. The organization has been at the centre of the controversy between critics and defenders of globalization and some consider that its role should be more active in protecting the interests of developing countries and environmental social issues. The WTO's core purpose was called into question. The debate extended to criticism of globalization and neoliberalism. The criticism was basically all about the lack of ethics in business and international relations. Therefore, there is a clear need for greater integration and coherence between the international institutes and for the improvement of coordination between national institutions within the process of world development and in responding to the challenges of globalization. In short, and once again, there is a need for an ethics code approved and adopted by all WTO members.

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