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# 30 YEARS OF WTO: SIGNIFICANCE, CHALLENGES AND IT'S FUTURE

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## ABSTRACT

International trade, business and commerce thrives through the World Trade Organization. It is a global asset that plays a crucial role in promoting a more secure, inclusive and sustainable world. Generating economic prosperity is the basic objective of WTO, but it ends up doing much more. Multilateralism and pluralism are only beneficial when supported by strong domestic push and support. If looking at the history, international trade has evolved significantly right from the initial silk route to E-commerce, the scope and ambit of international trade is ever evolving. However, it won't be wise to say that WTO is functioning too smoothly as many challenges are making the group difficult to progress. In this article the author tries to look into the history of trade, how it evolved, the birth of WTO, challenges faced, what reforms can be done to revive WTO and the future of WTO.

**Key Words:** World Trade Organization, Free Trade, Pluralism, Trade Agreement.

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## 1. INTRODUCTION

*“The World is governed by institutions that are not democratic- the World Bank, the WTO and the IMF” – Jose Saramago*

### *Early days of trade-*

The golden age of free trade around the world began at the time of the silk route. During the early days of silk route, trade and foreign policy started to interlink each other. Countries started to look for exports and imports of goods from various countries. The foreign trade policies were made in such fashion that it promotes better trade interests. Silk route become the most focal point of international trade between Asia and Europe. The world for the first time seemed to be coming close to mutual cooperation and trade. Many businesses flourished at that time.

### *Concept of Mercantilism gaining prominence-*

“From the early sixteen century to eighteen century, Europe witnessed the rise of mercantilism. The concept dominated the trade policies of most European powers at that time. To mercantile,

the main objective of the trade was to get a favorable balance of trade, wherein the exports should outweigh the imports i.e. doing trade surplus”<sup>i</sup>.

The biggest flaw in mercantilism was that it strictly opposed trade agreements between countries. The best example of mercantile trade policy was the British Navigation Act of 1651.

### ***Origins of Multilateral Trade Liberalism-***

Since the concept of mercantilism was against open trade with other countries, the need for multilateral trade started to come up. As Europe was embracing the first wave of industrialization, there was urgency to change the trade policy.

Enter Adam Smith, who introduced the concept of “Laissez-Faire policy” which advocated for non-government intervention in the optimal function of the market. He even advocated for division of labor<sup>ii</sup>. “David Ricardo, explained the comparative advantage of trading with other nations. Both of them stressed the desirability of import and argued that exports were just a necessary cost to acquire them. They were successful in influencing and igniting a trend towards more liberalized trade”<sup>iii</sup>.

In 18<sup>th</sup> and 19<sup>th</sup> century, Britain was at the zenith of its power through the ruling majority of trade. Britain passed a series of laws to further bolster its trade.

### ***The Deterioration of Multilateral Trade-***

In the late 19<sup>th</sup> century, the increasing approach towards liberalized multilateral trading began to slow down. “The Great depression of 1873 which lasted four years, forced the countries to introduce tariffs, which is essentially against free trade. USA on other hand, remained away from trade liberalization and adopted the protectionist approach”<sup>iv</sup>. Despite the initial slowdown in international trade, this period was much better as compared to the mercantile era.

### ***20<sup>th</sup> Century-***

20<sup>th</sup> century saw many structural changes in international trade. History will remember the first world war of the destruction it caused, but in terms of trade the war proved to be fatal for trade liberalization that began in 19<sup>th</sup> century.

Europe, who was driving international trade, suffered the most as economic conditions were very severe. In 1927, the newly formed League of Nations organized the “First World Economic

Conference” to formulate a multilateral trade agreement. However, the Great Depression in the 1930s and subsequent World War hampered any further progress.

“1944 was a crucial year as the Bretton Wood Agreement was negotiated. From this agreement, the International Monetary Fund (IMF), World Bank, and International Trade Organization (ITO) were formed. While the IMF and World Bank still continue to play an important role in maintaining world order, ITO was short lived as it failed to carry on”<sup>v</sup>.

After the Second World War, the USA and Britain were deemed as major superpowers. They felt there was a need for a more cooperative and open international system. Thus in 1947, the General Agreement on Tariffs and Trade (GATT) was born.

### ***GATT years-***

“GATT was made with the purpose of encouraging the reduction of tariffs among its member countries, it acted as the foundation for expansion of multilateral trade”<sup>vi</sup>. Soon after the devastating World War, Europe began to form a regional block for economic integration called “European Coal and Steel Community” in 1951. This same block later became what we referred to as “European Union”. Many other countries started to follow such trade agreements. Therefore, “regionalism did not grow at the expense of multilateralism”.

“GATT was instrumental in creating a sustainable environment for international trade for a reasonably long time. GATT was enforced at a time which saw significant rise in international commerce”<sup>vii</sup>. However, with time the cracks began to develop and GATT was no longer deemed efficient in enforcing world trade agreement.

The rise of globalization shifted the paradigm completely. Countries wanted to do rounds of negotiations in the 1980s for finding ways to improve trades. In this regard the most important negotiations begin in Uruguay. The negotiations continue to take place for years.

In between these negotiations the early 90s era also saw some significant changes. In 1991 the Soviet Union Collapsed. The EU pushed to form trade negotiations with newly formed countries. The block also set out to make bilateral trade agreements with Middle East countries. USA also pushed in its effort to form trade agreements, which resulted in a deal with Israel in 1985 and formation of “North American Free Trade Agreement (NAFTA) with Canada and Mexico”.

“Finally, the Uruguay Conference resulted in enactment of Marrakesh Treaty in 1994 and World Trade Organization (WTO) was formed and it came into effect on 1<sup>st</sup> January, 1995. WTO

replaced GATT as global watchdog of world trade liberalization”<sup>viii</sup>. “One key way WTO is different from GATT is that the focus of later was primarily reserved for goods, and WTO went miles ahead by including policies on services, Intellectual Property and investment. Another major difference is that GATT has only selected countries involved in the group, while WTO has much wider membership. WTO seeks to extend trade initiatives that were made during the GATT regime”<sup>ix</sup>.

### ***Birth of the WTO-***

WTO creation marked the biggest reform of international trade post second world war. The birth of the WTO also created new procedures for the settlement of disputes. The WTO General Council approved Geneva as Headquarter of the group. “WTO was created with the hope and ambition of bringing shared global prosperity and development through trade”<sup>x</sup>.

“First WTO Ministerial Conference was held in Singapore in 1996. The conference resulted in the establishment of three working groups on trade and investment, trade and competition policy and transparency in government procurement”<sup>xi</sup>. The Ministerial Conference is the highest decision-making body of the WTO and meets once in biennially.

1998 marked the golden jubilee of the multilateral trading system. “The system gave substance to a shared dream of a fair and open trading system. It directly laid the ground for breaking down barriers between countries and people. Rule based structure and principle of nondiscrimination are basic features of the agreement”<sup>xii</sup>.

From 1995 till 2000, the major discussions took place on Financial Services Accord, Basic Telecommunication negotiations, Maritime transport services and Information Technology products.

In 2001, it was felt the need of having major reforms in the international trading system through the introduction of lower trade barriers. This was discussed in the “Doha Round of Negotiations”.

## **2. MAJOR ACHIEVEMENTS OF WTO OVER 30 YEARS PERIOD**

### ***The Trade Growth-***

- “The World trade volume has ballooned roughly 45 times the level that was when GATT was newly incorporated (4500% growth from 1950-2022)
- The value of Global Trade has increased by 400 times as compared to early 1950 levels.

- As of 2022, world trade volume and value has expanded 4% and 6% respectively since the WTO was established in 1995.
- The world's current MNF tariff rate stands at an average of 9%, which is much less than it used to be<sup>xiii</sup>.

### ***Global Enhancement of Trade-***

WTO has built the binding rules for global commerce and trade in goods and services, which has resulted in rapid increase in cross-border trading activities. The bulk and value of trade has enhanced and WTO also contributed in eradicating trade and non-trade barriers.

### ***Improved Economic Growth-***

“Since 1995, the real volume of trade has increased nearly three times<sup>xiv</sup>. Together with the domestic reforms by various countries and market liberalization commitment has resulted in lasting impact on international trade.

### ***Rise in number of Global Value Chain-***

WTO has created an ecosystem of ‘predictable market conditions’ together with enhanced forms of communication that has resulted in increasing the global value chain. In these supply chains the total “70%” of mercantile trade takes place.

### ***Focus on Development of Poor Countries-***

- WTO is the only international body that gives equal footing to developing and poor countries. They receive more attention from the WTO. The body mandates the developed nations to lower the tariffs or import rates towards poor countries so that they can also grow.
- WTO members have from time to time agreed to make the necessary modifications to the rulebook, in order to maintain the flexible trade.
- The membership of WTO has expanded as more and more countries are willing to join the group. It covers almost “98% of global trade”, thus making it all accessible in the world.
- The dispute settlements are going on in WTO, recently it oversaw its “600<sup>th</sup> trade dispute settlement”.

“The Agreement on the Government Procurement (GPA) has also been amended as a result the trade has seen substantial gains over the time. It was made possible since various government entities were added. Also new services, other areas of public procurement were added to further

expand the coverage. The purpose of GPA is to ensure that signatories of WTO do not discriminate against goods and services of other countries. GPA is pluralist agreement, meaning it only applies to those members which wish to be bound by it<sup>xv</sup>.

#### ***Expansion of Information Technology Agreement-***

“WTO members had agreed to implement the landmark deal to eliminate tariffs on more than 200 IT products that are valued over \$1.3 trillion every year. All the members of WTO are poised to get the benefit as they will have duty free access to products<sup>xvi</sup>. Information Technology is a very essential part of the development of a nation. This will further benefit in increasing demand.

#### ***Amendments to TRIPS Agreement-***

“WTO IP rules were amended to ease the poor countries' access to affordable medicines within its legal framework. The amendment to the WTO TRIPS agreement was the first time since 1995 that its accord was amended. The changes were specially focused on global trading and public health. This enabled the generic medicines to be sold at reasonable rates so that even poor people can afford it<sup>xvii</sup>.

#### ***WTO Trade Facilitation Agreement enters into force-***

Marking the major milestone, the “first multilateral trade deal was reached in WTO history. The agreement seeks to expedite the movement, clearance of goods across borders resulting in trade facilitation reform across the world<sup>xviii</sup>.

#### ***Subsidies and Packages-***

WTO has given its fair share of help to agriculture, fisheries and other important sectors. This is to help the underdeveloped country to sustain and compete with the rest of the world. These subsidies have helped the countries in crisis-based situations.

#### ***First African & First Woman Director General-***

Unlike in the IMF or World Bank where the head of the group is usually from America, WTO is different in this approach. In March, 2021 “Dr Ngozi Okonjo-Iweala became the Director general of WTO” showing to the world that anyone from the world can assume the top position in the global power group.

### 3. MAJOR TAKEAWAYS FROM WTO 13<sup>TH</sup> MINISTERIAL CONFERENCE

#### *WTO membership expanded-*

Two least developed countries Comoros and Timor-Leste become the first countries to join the group since 2016, taking the total number of countries to 166.

#### *Services trade and investment facilitation got much needed boost-*

72 member countries agreed to agree on joint initiative on services domestic regulation. Will is intended to improve transparency and fairness on how the government should regulate trade services.

#### *Support provided to Least Developed Countries-*

Upgrading its status for least developed to developing is an uphill task, and the transition is not a cakewalk. This conference saw the agreement between the members to allow such countries to get the benefits for three additional years, to facilitate the change<sup>xxix</sup>.

These were some of the major highlights of WTO over the last 30 years. However, the journey has been far from smooth for the organization as it has and still continues to face various forms of challenges, hurdles, and opposition at various fronts.

### 4. CRITICISM AND CHALLENGES

WTO has faced criticism for favouring the developed countries due to their superior bargaining power and promoting policies that often conflict with economic interest and developmental needs of poorer countries. Agriculture, the major source of livelihood of developing and underdeveloped countries, the subsidy which is provided for agriculture remains highly contentious.

There are ongoing issues about the impact of liberalized trade on the environment and established social structure. Many critics believe that trade liberalization at such a massive level can severely damage environmental degradation and worsen living conditions.

The dispute settlement of WTO is often a complex and time-consuming area. “The EU-Latin America banana dispute is said to be the longest dispute in WTO history that lasted 20 years<sup>xxx</sup>. Thus, many countries find the dispute settlement unworthy as it fails to provide timely justice.



***Harmful Fisheries subsidy and Agriculture thrown out of discussions-***

The 13<sup>th</sup> Ministerial Conference meeting held this year, failed to make progress on the major agriculture agenda and a targeted deal on harmful fisheries deal, disappointing many trade experts. Both Fisheries and Agriculture are an important aspect of the global economy, such lack of concrete solutions hampers the aspirations of many countries.

***Many Important topics are in limbo and stuck indefinitely-***

Having a group of so many countries varied from developed and undeveloped, reaching a uniform agreement or consensus is a mammoth task. As a result, many important trade discussions are yet to be discussed amicably. Among them is industrial policy which still has concentrated in the hands of selected countries only.

***E-commerce duties on hold again-***

Today, the E-Commerce industry is rapidly growing and is becoming the major player in global business. Despite that WTO members have time and again failed to extend the “moratorium on custom duties across cross border electronic transmission”. Developing and Underdeveloped countries account for the majority of WTO membership, most of them are facing the severe challenge of raising the standard of living of their people and promising full employment, these challenges are refusing to slow down, instead because of certain reasons they continue to grow.

***Need to Recall the Preamble of Marrakesh Agreement-***

The basic objectives for which the WTO came into existence is mentioned in the preamble, which it derived from Marrakesh Treaty. Some of the major principles were- “to raise the standard of living, ensuring full employment, large and steadily growing volume of real income and effective demand, expansion of trade, goods and services”<sup>xxi</sup>. But expectations are always different from reality. On many parameters WTO has failed to deliver, benefitting only few countries to extend.

**5. DO WE REALLY DESPERATE IN NEED OF HAVING WTO**

Any international multiparty system that is created, one basic underlying purpose is to inject ‘trust, transparency and accountability’. WTO doesn’t do anything in this regard, it does the opposite, injecting tension in the international system. Many consider the WTO as functionally impotent. The group is on verge of becoming the biggest roadblock in achieving its own objectives. Vague and unambiguous policy decisions, fractured negotiations have led to the demise of WTO. There is an increase in trade wars between countries which bypass the WTO framework and further

creates holes in already sinking ships. In order to promote free trade, the WTO is going in the opposite direction. As these troubles coexist, the powerful countries would undermine the legitimacy of the group and continue to terrorize other countries.

### ***Dispute Unsettlement Mechanism-***

While it is already discussed that solving dispute mechanisms is a long process, it is the USA which stands between as it continues to reject the appellate body of judges. The major criticism that WTO faces is that its decisions are “not binding”, thus rendering the dispute settlement process worthless.

### ***Essential security conundrum-***

Any country has the right to take action which it deems necessary for protection of essential security concerns. However, what all things can be covered under security concerns is yet to be defined properly. This provision is called a “security exception”, and is often being misused<sup>xxii</sup>. This undermines the validity of WTO, and the group is left hapless.

### ***Domestic Laws vs WTO –***

“The European Union is keen to enact Carbon Border Adjustment Mechanism (CBAM). It contains many potential WTO violations that are possible due to WTO’s own rules. If implemented CBAM would violate GATT Article I on Most Favored Nation by promoting inconsistent trade practices. It will also violate GATT Article III i.e. National Treatment policy”<sup>xxiii</sup>.

US domestic laws empower themselves to do acts which supersedes WTO. Take “Section 301 of the Trades Act for example. It gives powers to the US to unilaterally impose on trade partners if found guilty of engaging in unreasonable trade restrictions against the USA”<sup>xxiv</sup>.

### ***Dearth of Leadership-***

During the early days, it was the USA who was in the driver's seat of guiding and shaping the course of WTO. In 2001, China debuted in the group and in less than 25 years established itself as the de facto leader of WTO. China continues to exploit the loopholes in the system and has no indication or sympathy to abide by the rules. Beijing in its defiance nature still argues that it is within the rights, despite other countries not agreeing the same. The USA is also to be equally blamed by not honoring the appellate body.

### ***Hyperglobalization to deglobalization-***

In the initial days of WTO, big MNCs grabbed the perfect opportunity of expanding their businesses, creating a massive global supply chain by taking the advantages of cheap labours and abundant raw materials available in India and China. The era of rapid development is dying a slow death. Creation of multinational alliances, isolationist politics has resulted in deglobalization. The tit-for-tat tariffs wars between US-China, US-EU and China-EU have significantly impacted global trade and business.

### ***Global Trade in Doldrums Ft. Covid-19***

2020-21 was hit hard by global pandemic “Covid-19”. It created severe and prolonged lockdowns across the globe, resulting in a stoppage of supply chain and demand. Countries were forced to close its border, imposed export restrictions on several business activities and manufacturing industries came to halt, plunging the market in deep turmoil.

### ***Ongoing Wars-***

Since 1995 there are various examples where the countries have engaged in wars. The latest in casualty is Russia-Ukraine, Israel-Palestine, ongoing concerns in the South China Sea among others. Russia is a key contributor to Petroleum products, Energy and Gas especially to European countries. But with war prolonging and imposing sanctions, many countries are hit by such circumstances.

## **6. LET US TAKE A LOOK ON SOME MAJOR ISSUES THAT IS HAMPERING THE GROWTH OF WTO**

### **•Fishing Stock-**

**Issue-** Reducing the Fish Subsidiary

**Why it is relevant-** fishing subsidies are valued at more than “\$35 billion” worldwide. Support to Large vessels would mean small boats will find it impossible to compete. Overfishing is also a major issue.

**Who is challenging it-** India and China. Both want to be classified as small states to get fewer restrictions. India, despite having vast coastlines, wants “special and differential treatment reserved for poorest countries”, which allows poor countries to develop. Small scale fishers from developing nations say WTO discussion on reducing the subsidiary as “unfair, unbalanced and

unequivocal". The exemptions which were granted are now curtailed by imposing unreasonable restrictions.

- ***Farming Subsidies-***

***Problem-*** Reducing Agricultural Subsidy-

***Stakes involved-*** Across the world. The governments have given farmers \$450 bn aid every year. This often results in trade distortion and increases in prices.

***Opposition-*** India and some other countries as they want to block the cheap imports and pay farmers money to stockpile the food supply in case of any adversary and right of state to buy back to tackle the demand.

***Restriction and Against-***

The WTO IP framework prevents poor countries from making such medicines. The US is against China including from using IP waiver since it already produces vaccines<sup>xxv</sup>.

- ***"A System in Sad State"-***

The downward spiral of the WTO continues. It raises serious questions on the organization's ability to maintain coordination. It is like the group is facing an existential crisis as if the entire working machinery is jammed. US is expected as a strong nation with humongous influence, to revamp the group, but instead the country adopted the worst possible way to puncture the working of WTO's dispute settlement body. First under the Trump Administration, the whole world watched the epic trade war between the USA and arch rival China. Then under Biden, there was new hope of stability but it was merely an illusion. The Biden government continued to be on a path created by its eccentric predecessor by continuing the battle with China. The EU is also to be equally blamed by putting up with China by announcement of Tariffs. The death of WTO is far from happening, but surely the grave has to be kept ready if things are not changed.

## **7. REFORMS IN WTO: MORE THAN NECESSITY**

In order to remain fit for 21<sup>st</sup> century, reforming the WTO has become the need of the hour. Both developed and developing countries are facing a series of challenges on trade. "Geopolitical tensions, political uncertainty, and increasing weaponization of trade making it difficult for WTO to survive. Despite this the world still backs the group and hopes that it bounces back strongly and overcomes these hard times. WTO has to revive its core functions to thrive.

Here are some possible reforms that can be done for WTO-

- ***Appellate Body and Dispute Settlement-*** Since 2019, the appellate body has been left in lurch and rendered useless. Because of this, there is no appeal that can be heard and disputes continue to exist. Reforming the dispute settlement remains the top most priority so that further erosion of WTO is minimized. Countries are progressing at a good pace for reforming, but there is still a lack of consensus. Lot of work has to be done to make the system fully functional. The body must find a permanent solution and make sure that no country like the US can hamper progress. Both procedural and substantial questions must be answered.
- ***Modernize Rules-*** It is no brainer that WTO rules are becoming obsolete and incompatible with the current system. Updating the WTO will reflect the changing global landscape. Digital trade and E-commerce have been flourishing, which requires the rules to govern them. Current moratorium and tariffs must also be studied to make it feasible; this will ensure the small and medium scale enterprise benefit. The group must also address the legitimacy of China's trade practices which are deemed to be aggressive. The growing influence of state-owned enterprises and industrial subsidies must also be looked into.
- ***Pluralistic Negotiations-*** Pluralism is the current and future of trade and business. Focusing on "pluralistic negotiations" involving the subsets of WTO members. Try to make it sector specific so that it can tailor the basic requirements of various sectors.
- ***Better Political Engagement-*** The Ministerial Conference is the top-level meeting that takes place every two years. However, it is advocated that such kinds of meetings should be held more often, to engage in effective political discourse. It will create far greater impact and ambitions for the countries.
- ***Transparency and Accountability-*** For any multilateral organization, "transparency and accountability" is of paramount importance. All the decision making, policies, rules and set of parameters must be transparent to all. WTO should be strict enough to enforce all the fundamental rights are properly enforced and held accountable to those who violate it. In this way equality shall prevail for everyone.
- ***Trade and Environmental Sustainability-*** Align the best trade practices along with environment sustainability to keep WTO strengthened to contribute in sustainability. This would also be a guiding light to meet the UN Sustainable Development Goals. Enhancing the dialogue on domestic environmental policy measures that were successful to share and implement across the globe.

- **Food Security and Agriculture Reform-** This sector is a fundamental part of WTO and is of prime importance. Climate Change, pollution, unhealthy soils, excessive use of chemicals hamper the food sector, agriculture value and supply chains. WTO has to let go of conventional practices and embrace sustainable farming, possible through continuous reforms. An array of challenges remains. For everyone's interest it is better to have WTO efficient and effective and capable of meeting the demands.

#### *Way Forward & Future of WTO-*

Modernizing the WTO should remain the top priority. It will be very helpful in the development of a new set of rules for dealing with E-commerce and digital trade. The WTO must deal with current problems like stubbornness of the USA and China and how they do trade practices and policies. Also, efforts must be taken on how to handle increasing state-owned enterprises and industrial subsidies.

The pressing areas like climate change, increase the efforts to align trade and environment sustainability can help overcome the challenge of climate change and reinvent WTO. Bolster the negotiation function of WTO, which is currently stagnant. Overcoming this would make trade flow freely and smoothly.

WTO must overcome two fundamental practices on its own. One is "single undertaking approach which severely reduces the future rule making decisions. Another is a consensus-based decision-making approach, which has considerable challenges as it is nearly impossible to get unanimous approval by 166 countries"<sup>xxvi</sup>.

To conclude, a functional WTO shall herald a new economic world order if it manages to overcome its obstacles that try to bog it down. Despite the criticism and challenges, International Trade and Business shall continue to grow and expand.

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