



## **ARTICLE: FUTURE OF MULTILATERAL TRADE RULES**

Integration into the world economy has proven a powerful means for countries to promote economic growth, development, and poverty reduction.<sup>1</sup> But, the global economy is in its worst downturn since the 1930s.<sup>2</sup> The international trade faces unprecedented uncertainty amid the COVID-19 pandemic and its immense economic fallout.<sup>3</sup> WTO forecast for 2020 estimates that the volume of global merchandise trade will tumble by between 13 and 32 percent compared to the previous year.<sup>4</sup> Maintaining a liberal international economic, social, and geopolitical system is a major concern for the world today. Member countries and those willing to join the organization are of the view that the multilateral trading system is essential.<sup>5</sup>

## **OBJECTIVES & CHALLENGES OF THE MULTILATERAL TRADE SYSTEM**

The World Trade Organisation was created to oversee and administer multilateral trade rules, serves as a forum for trade liberalization negotiations, and resolves trade disputes.<sup>6</sup> It is a consensus and member-driven organization. Its core principles include non-discrimination, freer trade, fair competition, transparency, and encouraging development that are enshrined in a series of WTO trade agreements covering goods, agriculture, services, intellectual property rights, and trade facilitation, among other issues.<sup>7</sup> However, the Multilateral Trading System, as embodied in WTO, stands virtually non-functional.

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<sup>1</sup> *Global Trade Liberalization and the Developing Countries*, INTERNATIONAL MONETARY FUND, (11 Jun, 2020, 01.56 PM), <https://www.imf.org/external/np/exr/ib/2001/110801.htm#ii>.

<sup>2</sup> Director-General Roberto Azevêdo, *WTO Annual Report 2020*, WORLD TRADE ORGANISATION (10 Jun, 2020, 04.56 PM) [https://www.wto.org/english/res\\_e/booksp\\_e/anrep\\_e/anrep20\\_dgmessage\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/anrep_e/anrep20_dgmessage_e.pdf)

<sup>3</sup> Remarks of Alan Wm. Wolff, *The Future of the WTO and the Multilateral Trading System*, THE PETERSON INSTITUTE FOR INTERNATIONAL ECONOMICS WASHINGTON DC 5 (2018).

<sup>4</sup> Gita Gopinath, *The Great Lockdown: Worst Economic Downturn since the Great Depression*, IMF BLOG, (13 Jun, 2020, 05.35 pm), <https://blogs.imf.org/2020/04/14/the-great-lockdown-worst-economic-downturn-since-the-great-depression/>.

<sup>5</sup> *World Trade Organization: Overview and Future Direction*, (13 Jun, 2020, 03.23 PM), <https://www.everycrsreport.com/reports/R45417.html#Content>.

<sup>6</sup> Cathleen D. Cimino-Isaacs, *et al.*, *World Trade Organization: Overview and Future Direction*, WASHINGTON INTERNATIONAL TRADE ASSOCIATION, (12 Jun, 2020, 04. 56PM), <https://www.wita.org/atp-research/wto-overview-future-direction/>.

<sup>7</sup>*Id.*



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The G20 leaders at their summit in Buenos Aires in 2018 mentioned in their declaration that “the system is currently falling short of its objectives and there is room for improvement. We, therefore, support the necessary reform of the WTO to improve its functioning.”<sup>8</sup>

The system is at risk. The challenges faced by the world trading system are the US-China exchanges of tariffs, the termination of the WTO's Appellate Body, and the exploitation of some of its member countries, especially that of the developing countries.<sup>9</sup> Protectionism has reached a stage where unilateral actions by various countries are common. The outcome of unilateralism, involving non-abidance of the established rules of the WTO, security exceptions being used by most prosperous nations is very unfair for developing countries. The US imposing Steel-Aluminium duties on the national security grounds<sup>10</sup> backs the fact that today there is a situation of non-enforceability of international trade rules.

The apparent death of the Appellate Body is facing cast criticism. The quorum required is no longer there & nomination of the new members is being disrupted. The future of WTO DSS is at stake. As per the WTO Annual Report 2020, the General Council appointed Ambassador David Walker (New Zealand) as a facilitator charged with helping WTO members find a solution to improving the functioning of the Appellate Body. However, there was no consensus on the resulting set of proposals, and in December, DG Azevêdo announced he would launch high-level consultations to find a way forward on maintaining a two-step review process for the settlement of trade disputes.<sup>11</sup>

It is therefore very safe to state that on one side, the rules are not being abided by & on the other, there is no enforceability of those rules, as the Appellate Body is collapsing. These

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<sup>8</sup>G20 Leaders' declaration, *Building consensus for fair and sustainable development*, 2018 BUENOS AIRES SUMMIT, (11 Jun, 01.16 PM), <http://www.g20.utoronto.ca/2018/2018-leaders-declaration.html>.

<sup>9</sup> *Supra* note 3.

<sup>10</sup>*US tariffs on derivative steel, aluminum imports take effect*, THE ECONOMIC TIMES, (10 Jun, 2020, 12.02 PM), <https://economictimes.indiatimes.com/news/international/business/us-tariffs-on-derivative-steel-aluminium-imports-take-effect/articleshow/74038597.cms?from=mdr>.

<sup>11</sup> *WTO Annual Report 2020*, WORLD TRADE ORGANISATION, (10 Jun, 2020, 04.56 PM), [https://www.wto.org/english/res\\_e/booksp\\_e/anrep\\_e/anrep20\\_chap2\\_e.pdf](https://www.wto.org/english/res_e/booksp_e/anrep_e/anrep20_chap2_e.pdf).



all come on top of a very subtle legalistic environment of protectionism that was always present in the global order.

## UNFAIR LEGALISTIC AGREEMENTS FOR DEVELOPING COUNTRIES

There are certain rules of the Agreement on Agriculture protecting huge subsidies of the developed world. The domestic subsidies in agriculture are identified by “Boxes” namely Green Box, Amber Box & Blue Box<sup>12</sup>. The developed world has classified most of the ‘Standard Operating Procedures’ as non-trade distorting subsidies (green-box), which supposedly has minimal effect on world trade. The subsidies that distort the international trade by making products of a particular country cheaper in the international market as compared to same or similar product from another country is slotted under amber box. Most developing countries cannot risk increasing the amber box subsidies to more than the 10 per cent of their total production value of a specific commodity as they could then be penalised. If it is removed, the production in agriculture will shift following ‘Comparative Advantage Theory’ which lies in the developing world. A clear conflict of interest between the Developing Countries and the prosperous nations can be traced. Prosperous Nations are able to highly subsidise their farmers but routinely reprimand countries such as India and China for their ‘minimum support price’ programmes for poor farmers. Even with low over-all subsidies, India can be penalised for breaching the 10 per cent ceiling for rice once the food subsidy programme is fully implemented<sup>13</sup>. This stands a good example for how the legalistic agreements are quite unfair for developing countries.

The Doha Round which was held in November 2001 for the realization of implementation issues, envisaged with the developmental focus. The established mandates, that were agreed to at the ministerial level, to renegotiate unfair agreements, got abandoned, and very soon the Doha Round came to a complete halt as the United States and EU weren't willing

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<sup>12</sup> *Domestic support in agriculture: The boxes*, WORLD TRADE ORGANISATION (20 Jun, 2020, 02.56 PM) [https://www.wto.org/english/tratop\\_e/agric\\_e/agboxes\\_e.htm](https://www.wto.org/english/tratop_e/agric_e/agboxes_e.htm)

<sup>13</sup> Subhayan Chakraborty & Sanjeeb Mukherjee, *New US complaint at WTO on India's farmer subsidy*, BUSINESS STANDARD (20 Jun, 2020, 03.45PM) [https://www.business-standard.com/article/economy-policy/new-us-complaint-at-wto-on-india-s-farmer-subsidy-118051100026\\_1.html](https://www.business-standard.com/article/economy-policy/new-us-complaint-at-wto-on-india-s-farmer-subsidy-118051100026_1.html)



to give up their agricultural subsidies<sup>14</sup>. It is one of the major factor which forced countries to adopt the route of regionalism and plurilateralism in order to continue the momentum towards freer trade.<sup>15</sup>

## INDIA AND THE WORLD TRADE

India actively participated in Doha Round trade talks and created intense pressure on developed countries on vital areas, such as agriculture and non-agriculture market access, to achieve higher economic growth through trade reforms. But, due to failure of Doha Rounds to meet the expectations of developing countries, the countries spur to explore other possible ways to facilitate its economic integration with the world economy.<sup>16</sup> Many countries, including India, decided to adopt the route of regionalism to accelerate their economic growth. <sup>17</sup> The India- South-Asia (SAFTA) (2004), India-Singapore Comprehensive Economic Cooperation Agreement (CECA) (2005), India-Korea Comprehensive Economic Partnership Agreement (CEPA) (2010), India-Japan CEPA (2011), and India-Malaysia CECA (2011) are the bilateral and regional trade negotiations around South Asia and South-east Asia that India signed after Doha Rounds. The nature and coverage of these trade agreements were relatively higher than its existing commitments in the WTO.

India enjoys a trade surplus with the US. But, in recent years, India has also become a victim of US unilateral, protectionist trade practices. Extra tariffs have been imposed on

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<sup>14</sup> Kimberly Amadeo, *Doha Round of Trade Talks -The Real Reason Why It Failed*, THE BALANCE (20 Jun, 2020, 04.34PM) <https://www.thebalance.com/what-is-the-doha-round-of-trade-talks-3306365#:~:text=Why%20Doha%20Failed,give%20up%20their%20agricultural%20subsidies.&text=That%20would%20entice%20the%20United,Trade%20in%20Services%20Agreement%20negotiations>.

<sup>15</sup> Surendar Singh, *India's Approach towards Bilateral, Regional and Multilateral Negotiations*, CUTS International (22 Jun, 2020, 04.46PM) [http://www.cuts-international.org/pdf/Indias\\_Approach\\_towards\\_Bilateral\\_Regional\\_and\\_Multilateral\\_Negotiations.pdf](http://www.cuts-international.org/pdf/Indias_Approach_towards_Bilateral_Regional_and_Multilateral_Negotiations.pdf)

<sup>16</sup> *Id.*

<sup>16</sup> PWC, *Gateway to the ASEAN India's north east frontier*, 2014



Indian steel and aluminium as well. Oil import costs in India have been raised by US sanctions on Iran as well.<sup>18</sup>

Recently, India walked out of negotiations on the 16-nation Regional Comprehensive Economic Partnership (RCEP) free trade agreement and is trying to renegotiate its existing Free Trade Agreements (FTA) and redouble its efforts to conclude other trade negotiations.<sup>19</sup> India also suffered a setback at the World Trade Organization (WTO) in a dispute against the US that had challenged its key export subsidy schemes including the one for special economic zones. A dispute panel in the WTO ruled that these export subsidy programmes provided by the Indian government violated provisions of the trade body's norms.<sup>20</sup> This ruling is likely to affect many schemes including Merchandise Exports from India Scheme (MEIS), Export Oriented Units Scheme and sector specific schemes, including Electronics Hardware Technology Parks Scheme and Bio-Technology Parks Scheme; Export Promotion Capital Goods Scheme; and Duty-Free Imports for Exporters Scheme<sup>21</sup>.

## LEARNING FROM THE PAST & WORKING IN PRESENT FOR A BETTER FUTURE

Today there is a situation where effectively no rules prevail; countries with economic power are free to violate them. There is no dispute resolution system working today & what the future holds is hard to predict. The trade war between China & US is igniting again. China has clearly expressed its stance on the US violating WTO rules and igniting a trade war. To defend China's core interests, it has been forced to impose counter-tariffs on

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<sup>18</sup> Li Baijun, *Multilateral Trade: Together, keeping the doors open*, THE ECONOMIC TIMES, (22 Jun, 2020, 03.45PM) <https://economictimes.indiatimes.com/blogs/et-commentary/multilateral-trade-together-keeping-the-doors-open/>

<sup>19</sup> Suhasini Haidar, *Analysis | India faces a year of tough trade negotiations*, THE HINDU, (22 Jun, 2020, 05.45PM) <https://www.thehindu.com/news/national/new-delhi-faces-a-year-of-tough-trade-negotiations/article30486054.ece>

<sup>20</sup> Kirtika Suneja, *India loses export incentive case filed by US at WTO, to appeal against the ruling*, THE ECONOMIC TIMES, (20 Jun, 2020, 05.00PM) [https://economictimes.indiatimes.com/news/economy/foreign-trade/wto-panel-rules-india-export-subsidies-illegal-upholds-u-s-case/articleshow/71841672.cms?utm\\_source=contentofinterest&utm\\_medium=text&utm\\_campaign=cppst](https://economictimes.indiatimes.com/news/economy/foreign-trade/wto-panel-rules-india-export-subsidies-illegal-upholds-u-s-case/articleshow/71841672.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)

<sup>21</sup> *Id.*



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US products.<sup>22</sup> One should never forget that there are no winners in a trade war, only collateral damages. China and India have constantly promoted — and defended — the multilateral trading system. They have the responsibility to ensure the smooth functioning of the multilateral trading system embodied in WTO and free trade. It is also in the interest of the two countries.<sup>23</sup>

The Deputy-Director General Alan Wolff of the United States while speaking at a Think 20 virtual panel on Policy Recommendations for a Post-COVID 19 World said that the multilateral trading system will continue to face challenges in limiting the harm to trade and the global economy resulting from the COVID-19 pandemic. The two system imperatives deserve attention: strengthening trade rules that are least prescriptive and acting collectively where needed.<sup>24</sup> Previously, speaking at a virtual meeting of the Informal Group of Acceding Governments, he said that by participating in the multilateral trading system, members will be better placed in dealing with and recovering from the on going health and economic crisis. “Being part of the multilateral trading system is essential now more than ever”.<sup>25</sup>

The most feasible option rests is of learning from the past and improvising day-by-day to make the system and rules effective. The developing countries shall take this as an opportunity to improve the system by developing their proposals and putting them forward. Just opposing the aggressive proposals made by developed countries is not enough.<sup>26</sup> Three of the biggest economies in the world are developing countries namely - China, India & Brazil<sup>27</sup>. This is a good opportunity for forming new coalitions in WTO to

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<sup>22</sup> Li Baijun, *Multilateral Trade: Together, keeping the doors open*, THE ECONOMIC TIMES, (22 Jun, 2020, 03.45PM) <https://economictimes.indiatimes.com/blogs/et-commentary/multilateral-trade-together-keeping-the-doors-open/>

<sup>23</sup> *Id.*

<sup>24</sup> WORLD TRADE ORGANISATION, (20 Jun, 2020, 03.46 PM) [https://www.wto.org/english/news\\_e/news20\\_e/ddgaw\\_18jun20\\_e.htm](https://www.wto.org/english/news_e/news20_e/ddgaw_18jun20_e.htm)

<sup>25</sup> WORLD TRADE ORGANISATION, (20 Jun, 2020, 03.46 PM), [https://www.wto.org/english/news\\_e/news20\\_e/ddgaw\\_09jun20\\_e.htm](https://www.wto.org/english/news_e/news20_e/ddgaw_09jun20_e.htm)

<sup>26</sup> Dr. Carlos Maria Correia, *Advancing Partnership in Indo-Pacific*, DELHI DIALOGUE XI, NEW DELHI, Dec 13-14, 2019.

<sup>27</sup> *Top 25 Developed and Developing Countries*, INVESTOPEDIA, (20 Jun, 2020, 02.34 PM) <https://www.investopedia.com/updates/top-developing-countries/>



preserve the essential values of the WTO as a system based on multilateral rules and not as a system based on the exercise of economic power.

## CONCLUSION

The multilateral trade rules are quintessential for the world trade. Prosperous and developed Nations tend to dominate the world trade by exploiting the Least Developed and Developing Nations as is evident from the past. The non-functionality of this system has to be done away with as soon as possible. The only practical means for meeting the desired end is coalition of developing nations to form a voice against the dominant nations. The essential values of WTO need to be restored in order to have a free and fair trade environment globally. With the advent of COVID-19 pandemic, where the world trade is severely hampered, “being part of the multilateral trading system is essential now more than ever”.<sup>28</sup>

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**Date:** 22.06.2020

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<sup>28</sup> WORLD TRADE ORGANISATION, (20 Jun, 2020, 03.46 PM), [https://www.wto.org/english/news\\_e/news20\\_e/ddgaw\\_09jun20\\_e.htm](https://www.wto.org/english/news_e/news20_e/ddgaw_09jun20_e.htm)