

A necessity for the WTO's reforms

Dr Md. Habib Alam

PhD in Law at The National University of Malaysia BARRISTER-AT-LAW (Lincoln's Inn) UK LLM (UK), PgDip(BVC)UK , LLB(Hons)UK

ORCID iD: <https://orcid.org/0000-0001-9025-0860>

Email: drmdhabibalam@gmail.com

Abstract: World Trade Organization is known as an international trade rules-based institution. Before WTO, International Trade Organization (ITO) and General Agreement on Tariffs and Trade (GATT) were formed. Both ITO and GATT may perhaps not succeed in their goals due to different issues (i.e. non-ratification, discriminatory measures, etc). To overcome these difficulties, WTO was formed on 1 January 1995. As of 18 October 2020, 164 members signed the WTO agreement including frontline trading members like the United Kingdom, the United States, Israel, China, Canada, Japan, Australia, etc. WTO holds 98% of global trade within the global trade community. According to the Director-General of the WTO (Roberto Azevedo), WTO's reforms are desirable for the future stability of the World Trade Organization. This notion was supported by world leaders and different international organizations. For the future reforms of the WTO, different issues may require to consider by the World Trade Organization. Different issues may include thoughts of the next Director-General of the WTO, legal scholar thoughts; examining and investigating different policies and guidelines which are adopted by different countries to cope with current situations (i.e. COVID-19, political unrest, etc). My research will justify as to why the WTO' reforms are necessary for the development of international trade around the world.

Keywords: ITO, GATT, WTO, reforms, international trade.

INTRODUCTION:

World Trade Organization (WTO) is a part of the sustainable development of trade organizations within the global trade community.¹ The world trade organization is well-known as an international trade entity that deals with world trade rules among WTO members. WTO was established on 1 January 1995 shaped by Uruguay Round negotiations (1986-94). WTO is located in Geneva, Switzerland. It has funded 197 million Swiss francs for 2020 and has 623 staff. The main functions of WTO are to administer/negotiating/monitoring WTO agreements among WTO members, provide technical assistance and training to WTO members, to build friendly trade relationship with international trade entities. As of 18 October 2020, 164 access to WTO agreements like the United States, the United Kingdom, India, Israel, China, Canada, Japan, Australia, etc. WTO represents 98% of world trade within the world trade sector.²

Before the illustration of the current status of WTO, the readers require to acquaint about an overview of the historical background of the WTO.

IMPACT OF ITO AND GATT ON THE WTO:

International Trade Organization (ITO) and the General Agreement on Tariffs and Trade (GATT) were the predecessors of the WTO. ITO could not enforce on account of the non-ratification of the Havana Charter by the United States Congress.³ General Agreement on Tariffs and Trade (GATT) could not be successful owing to lack of enforcement among GATT members, misused the terms of GATT rules, implementing discriminatory measures on GATT members, bypassing GATT rules among GATT

members and 80% trade conducted among GATT members by bypassing GATT rules. Thus, both ITO and GATT failed to reach its aspire of triumph.⁴

By reason of ITO and GATT's failure, the World Trade Organization was established in 1995 by replacing GATT. WTO provides an opportunity to governments of WTO's members to settle their trade disputes through a system of trade rules.⁵

In the next session, I will illustrate how different experts/organizations/states have suggested and adopted different policies for future WTO reforms.

EXPERTS' THOUGHTS ON THE NECESSITY FOR THE WTO's REFORMS

Roberto Azevedo (Director-General of World Trade Organization) said "when the World Trade Organization was launched 20 years ago it represented more than a reform of the old GATT system". He also commented WTO is considering a unified world trade mechanism which settles the disputes through openness and cooperation among WTO members. The WTO's first 20 years were successful because of WTO's members' decisions. The success of the WTO for the next 20 years will also depend on WTO's members' decisions.⁶

Dispute Settlement Body (DSB) is an important part of the World Trade Organization. The main functions of DSB are to form panels, appellate body, and implementing rules and regulations under covered agreements (Article 2.1 of DSU). As stated by the World Trade Organization, DSB is considered as "fastest international dispute settlement mechanism".⁷

According to the WTO report, WTO received 500 trade dispute cases until 2015. Director-General Roberto Azevedo said, "WTO's dispute settlement system enjoys tremendous confidence among the membership, who value it as a fair, effective and efficient mechanism to solve trade problems".⁸

At the moment, the DSB is at risk. Until 10 December 2019, there were only 3 members out of 7 members. Two members out of three remaining members' 4 years terms of service contracts came to end.⁹

US accused that DSB acted beyond its jurisdictions by creating new laws that are incompatible with Article 3.2 of DSU. US President Donald Trump stated DSB acted *Ultra Vires* and the USA may pull out its membership from the WTO if the USA is not treated fairly in the future.¹⁰

In G20 Osaka Summit 2019, The G20 suggested for free, fair, non-discriminatory, transparent, predictable, stable, and well trade environment within the world trade sector. They also stated, "We reaffirm our support for the necessary reform of the World Trade Organization (WTO to improve its functions".¹¹

On 19 July 2019, Director-General Roberto Azevedo reported the reform is already happening. The process of reform will depend on WTO's members' decisions, i.e. how to shape the WTO's reform. The reform process of WTO will be a grave examination for the World Trade Organization to adopt new rules and overcome new challenges. Reforms of the WTO are not a short trip but a long journey. Director-General Roberto Azevedo stated, "the journey has already begun, whether one realizes this or not. So, let's seize this opportunity to update and strengthen the system".¹²

At G20 Ministerial Meeting on Trade and Digital Economy June 8-9, 2019, Tsukuba, Ibaraki, Japan, G20 trade ministers suggested to "work constructively with other WTO Members to undertake necessary WTO reform with a sense of urgency, including in the lead-up to Twelfth WTO Ministerial Conference".¹³

International Chamber of Commerce recommends "unambiguous reform" in three sectors, i.e. trade negotiation sectors, administering global trade rules, and forming mechanisms for a well-organized dispute settlement procedure. Reform of the WTO should be a comprehensive reform for the sustainable development of mankind and the planet. These reforms will enable the WTO members to avoid unfair trade practices and assist the SMEs to trade internationally. ICC suggested conducting reforms in 5 priority sectors, i.e. building up WTO governance and answerability, updating the existing WTO rule book, drafting new rules, forming well-organized dispute settlement mechanisms, building a relationship between trade policy and international regimes.¹⁴

EU president Ursula Van der Leyen reconfirmed that "reform of the WTO remained a top priority".¹⁵ EU recommended forming an alternative means of dispute settlement to tackle the current situation of the DSB. EU signed two agreements with Canada and Norway to form interim Appeal Arbitration Arrangement (ad-hoc arbitration) according to Article 25 of DSU.¹⁶ From my point of view, WTO members may adopt this procedure for the settlement of their disputes by avoiding DSB.

As stated by the UNCITRAL report, WTO is slowing down and its' requires reform. WTO may consider other international laws to combine with WTO to work more efficiently. In the *Gasoline* and *Lockerbie* cases, the competent authorities suggested that WTO may consider other international laws (Montreal convention, CISG, UNCLOS III, Vienna convention, etc) along with WTO rules' application.¹⁷

In legal research, it has been examined that CISG may be combined with WTO to work more efficiently and will save WTO from future non-existence. For this procedure, we may consider Articles 6(i.e. parties' discretionary/autonomy), 7 (i.e. Interpretation should have complied with international standard and good faith), 9 (i.e. adopting any usages and trade practices among parties) of CISG.¹⁸

According to Roberto Azevedo (Director-General of WTO), "The COVID -19 has given rise to the deepest economic downturn of our lifetimes". This downfall affects job security and trade disruption around the world. He recommended Policymakers should come with a well-built, sustainable, and wide-ranging economic improvement for sustainable worldwide economic growth. Roberto Azevedo suggested improving technologies, digital trade/e-trade for the construction of a well-digitalized platform to overcome future undesirable situations (i.e. COVID-19). Lastly, he commented "Finally, the Covid-19 pandemic has highlighted the limitations of existing tools for measuring trade.....to tackle COVID-19....International organizations will need to increase co-operation to prepare themselves for future challenges of this scale".¹⁹

Marc L. Busch pointed out that WTO desires a wider variety of reforms and members should possess great creativity thoughts. Finally, Marc L. Busch commented, "on day one, the next leader of the WTO has to start managing expectations".²⁰

From the above paragraph, it may be observed that the next Director-General of the WTO will play a vital role in the reforms of WTO. In the next session, I will focus on how the next Director-General will deal with the matters of WTO's reforms.

The next Director-General of WTO (i.e. successor of Roberto Azevedo) will be selected by "a negotiated consensus among member governments" and the future of WTO will be dependent on his/her hand.²¹ The next Director-General will have to consider world economic chaos, global political unrest, and other essential issues to overcome all these problems for the future survival of the WTO through efficient reforms.²²

From my point of view, the next Director-General of WTO should follow a unified progressive approach and may consider the following questions (i.e. 3 thoughts)²³:

- Past thought: What were the WTO's pros and cons in the past which may help to cope with the current situation?
- Present thought: What are the issues of the WTO that may deal with the future reforms?
- Future thought: How to achieve the survival of the WTO in future through efficient reforms?

So, it can be concluded, "past thought + present thought + future thought = sustainable development of the world trade through efficient reforms of the WTO".

CONCLUSION

The above discussion amplifies that reforms of the WTO are indispensable at this moment that may save the WTO from the future non-existence and is also essential for the welfare of the sustainable development of the trade within the world trade sector.

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