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The World Trade Organization

[and its critics]

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1. Introduction

In November 1999, the members of the World Trade Organization met in Seattle for a meeting which rapidly has been known as “the battle of Seattle”. It was the first coordinated mass revolt against global capitalism in the modern era. Here was an event that united labour unionists, environmentalists, consumer advocates, human-rights activists, farmers, organic food lovers, AIDS activists, the list goes on.

Anti-Globalization protesters and the world’s less developed countries argued that the processes within the WTO had gone far enough and the very future of the organization was called into question.

The rebuilding process of the WTO began in Doha, in November 2001. The meeting between the then 142 members concluded with the decision to launch a new round of talks, to be called the “Doha Development Agenda”. Undoubtedly, these talks were designed to increase even more the liberalisation of trade, but such a goal is to be tempered by a policy of strengthening assistance to developing countries in their pursuit of economic growth, employment and poverty reduction, the promotion of a global sustainable development and even a global policy for environmental protection.

The aim of this paper is to examine, briefly, the conditions that led to the creation of the WTO and, somehow, to try to understand the concerns of those some who feel that global economy is increasingly beyond their influence. In the particularly case of this paper, we will concentrate upon the criticisms made by developing countries and environmental movements.

2. Trade Protection policies and the origins of global institutional systems

During periods of instability and change, the political impetus for protectionist policies may prove unstoppable. It is sometimes a general sentiment that a country's health and welfare is best ensured by denying foreign advantage.

Based on the Mercantilist paradigm, many politicians and economists advocate securing trade gains at the expense of other countries, by erecting barriers against imports and aggressively promoting exports. But this feeling is more apparent in some moments and places than others. When the world economy is booming it becomes less relevant since all are becoming richer; when economic growth slows, become stagnant or even shrinks, the protectionist barriers go up and then one country's economic fortune can be at the expenses of another's.

At such times, it requires considerable diplomatic effort to prevent trade restrictions from spreading. A general collapse in world trade, everyone agrees, is bad for all, but what does it matter if my country alone subsidizes its export and protects its vital industries? Such is the argument of the "free-rider" – who benefits most if everyone else agrees to the rules.¹

The balance of payments problems that many countries experienced after the oil crisis of 1973 and the recession of the early 1980s led many politicians around the world to call for trade restrictions. Although a "trade war" was turned aside, there was a gradual increase in non-tariff barriers, such as subsidies on domestic products, the prohibition of imports that did not cope with particular specifications, severe administrative delays in customs clearance, limits on investment by foreign companies, and governments favouring domestic firms when purchasing supplies.

3. Predecessors of the WTO

- The International Trade Organization (ITO)

Following the end of the Second World War, international leaders were anxious to erect institutions into the international system capable to protect the world from a possible

¹ Cleaver, 2007, p.93

repetition of such disastrous events. The US took the lead in advancing the view that free trade would represent an important mechanism for consolidate world peace.

The Allies, particularly the United States and United Kingdom, began discussions about the reconstruction of the world economic order. In 1944, at the Breton Woods conference, those countries signed an agreement that provided the outline for a post-war economy. Three pillars, therefore, were foreseen for the purpose of maintaining international economic cooperation: The International Monetary Fund, the World Bank and the International Trade Organization.

Following the bilateral trade negotiations between the US and Britain, successive multilateral conferences were held between 1946 and 1948. The outcome of this process was the Havana Charter, the draft agreement for the creation of the ITO, which was signed by 53 of the 56 countries participating in the conference.

However, despite this “promising” multilateral commitment, the ITO never came into existence.

The ITO had collapsed under the weight of its own ambitions. It taught trade negotiators and their political masters some important lessons about the reach that a multilateral trade organisation could politically achieve at the time. It illustrated that any multilateral process risks derailment if it does not take into account the views of affected constituencies, whether they are domestic interests or smaller countries at the negotiating table.²

The failures of the ITO experiment helped negotiators identify the politically feasible, and this was to be found in the General Agreement on Tariffs and Trade.

- The General Agreement on Tariffs and Trade (GATT)

In 1945, during the discussions for the ITO, the United States proposed a multilateral commercial treaty on tariff reductions to be negotiated by the participating countries. Behind this proposal was the recognition by US representatives that though a a

² Narlikar, 2005, p. 12

multilateral organization such as ITO would need ratification from the Congress, a trade agreement could be negotiated and implemented much more easily. This fact, and the negotiation on the Havana Charter, had represented the openness of the conditions for the establishment of the GATT, which was to serve as an interim agreement until the ITO comes into force. It was signed by 23 countries, in 1948, and was to provide a provisional framework for multilateral cooperation until the ITO was formed. This “temporary” agreement was the basis for the international trade system no less than 47 years.

The coverage of the GATT was very short in comparison with the ambitious ITO. As pointed by Narikar, it was, in fact, no more than the commercial policy chapter of the ITO, with a weak dispute settlement mechanism³. Contrary to the ITO idea, made no mention of employment, development restrictive business practices or commodity agreement.

The legal nature of the GATT was, perhaps, its most interesting feature. This Agreement was little more than a negotiating forum, held by a multilateral treaty signed by parties and not by members of an organization. In fact, it was a “formally-contracted, rule-oriented, non-organizational form of cooperation in international affairs”.⁴

The result of this non-existent organizational structure of the GATT was that commitment to it was less expensive than would have been the case for the ITO. Given this minimal costs of participation (financial and institutional), it is not surprising that the GATT survived for so many years.

But the weakness of the institution also meant that it did little to address the power asymmetries that severely disadvantage developing countries in their trade relations. The onus of negotiating and implementing agreements fell on the members themselves, with little help from the Secretariat. Developing countries, therefore, found themselves deficiently equipped to participate in full in the treaty, due to their limited technical capacity.

Notwithstanding the dissatisfaction and relative marginalization of the developing countries, the GATT continued to exist for over four decades.

In part, this longevity, especially remarkable given the difficult history of its unborn predecessor, derived from its ability to suit the needs of

³ Narikar, op. cit, p. 16

⁴ Gilbert Winham, cited by Narikar, op. cit., p.16

*the major trades from the Western world. It covered the commercial interests of the developed countries, without making any intrusion into their domestic jurisdictions.*⁵

4. The WTO: formation and underlying principles

The formation of the World Trade Organization, in 1995, was intended to replace the GATT and, somehow, was a form to rebuild the aborted ITO, though without the constraints that had driven to the collapse of the later.

Some contracting parties of the GATT proposed the formation of a more permanent body, as dissatisfaction with the GATT had been evident in different quarters.

The changing comparative advantage of developing countries demanded that the GATT would have to expand to new kind of services, like intellectual property rights and investment measures, to mention just a few.

On the other hand, it was necessary to create a mechanism to facilitate a better coordination between the GATT, the World Bank and the International Monetary Fund, for the coherence of the international economic system. A trade organization able to maintain such institutional relations with other major organizations emerged as a solution.

The official foundation of the WTO, marking the completion of the Uruguay Round, was signed in April 1994, in Marrakesh. The new agreement covered the new issues of intellectual property rights and investment measures and over 36.000 pages of national schedules on goods and services. The creation of the WTO was indeed a response to problems with which the old GATT structure could no longer cope.

The Agreement establishing the WTO commits its member states to a variety of noble purposes: improved standards of living, full employment, expanded production of and trade in goods and services, sustainable development, and an enhanced share of less developed countries in international trade.

The Agreement further commits its members to contribute to these objectives by entering into reciprocal arrangements for the purpose of substantial reduction of tariffs and other barriers to trade, as well as to the elimination of discriminatory treatment between countries.

⁵ Narikar, op. Cit, p.19.

The WTO as an institution is clearly committed to trade liberalization. These commitments, nevertheless, is not an end in itself, but is seen as a means to achieving the broader social ends mentioned above.

But what means trade liberalization, in the context of the WTO?

In the words of Narikar:

Barring a few qualifications, economists view the commitment to trade liberalization as a welfare-maximizing pursuit. Economic theory since the middle of the 18th century has presented the advantages of lowering tariffs for most parties in most situations. The gains from trade derive from specialization on the basis of comparative advantage.⁶

Two key values underlie the agreements of the WTO: *non-discrimination* and *reciprocity*. By non-discrimination, WTO members commit themselves to treat foreign goods no less than favourably than domestically produced like goods and, on the other hand, that a product made in one member country should be treated no less favourably than a good that originates from any other country.

The second principle, reciprocity, makes the process of agreeing to tariff concessions politically appetizing for domestic politics of each country. It limits 'free riding', that might otherwise become out of control through the first principle of non-discrimination.

In addition to those two broad principles, the WTO commits itself and its members, at least theoretically, to transparency, enforceability of the commitments and the possibility of some exceptions, which allow governments to restrict trade under certain circumstances. The transparency principle induces states to publish their trade regulations and notify changes, and reminds that their policies are subject to surveillance by the Secretariat of WTO, through its Trade Policy Review Mechanism.

5. Criticism to the WTO: lack of democratic procedures and resistance to include the environment in negotiations

The WTO, as an institutional organization, is characterized by a legal framework inherited from the GATT. Alongside with its agreements, structures and enforcement capacity, sit informal negotiation processes.

⁶ Narikar, op cit, p. 46.

The operating procedures of the organisation, however, tend to create imbalances between its members. Its decision-making process, which is taken in the basis of consensus, often creates disadvantages or developing countries. Firstly because any objection to a particular decision should be presented by its opponents and this translates in a very difficult condition for developing countries. About 22 member countries have no delegation in Geneva, headquarter of the WTO, and therefore they are not able to voice their objection to the decision under discussion.

Secondly, due to the existence of exclusionary clubs-like meetings, as the majority of the developing countries have found themselves often excluded from such meetings. This informal, *ad-hoc*, diplomatic procedures are in some way in opposition to the broad principle of transparency that is one of the pillars of the WTO.

In regard to environmental issues, the contention of critics is that the Organization is inadequate for the purposed of protecting the environment. There are two general arguments for including environment in WTO discussions. The first is that the GATT is out of date; when it was negotiated, environmentalism was not a public issue. The second is that the environment is of such importance that WTO rules should allow trade restrictions to support protection to the environment. A more particular argument is concerned to agricultural policy; when the rules of free trade apply to agriculture, exemptions should be made.

A related argument made by environmentalists is that the degradation of the environment in the global commons (the atmosphere, the migratory species, the high seas, etc.) requires extraterritorial reach. However, this implies with national sovereignty of the member-states, and the WTO principles are based upon national sovereignty of its members.

In fact, there are no cases where it can be said that WTO procedures provides effective protection to the environment. But maybe its capacity to meet the core objective – raising prosperity trough trade, would be undermine if the WTO would give to his members great latitude to restrict trade to protect the environment.

6. Conclusion

Some protesters might believe there is a growing international backlash against the WTO. But the countries queuing up to join the WTO, from the most populous and the largest to the smallest and economically weakest, are proof that a significant part of the world believe that their economic future lies in the WTO system. Of course the system could be improved. But there's no sense to undermine its foundations and objectives.

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