

“Relationship among “WTO” Objectives and Economic Rights”

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Abstract

Every member country in the “WTO” is required to establish trade laws and mechanisms that allow its people to undertake economic activities across national borders in pursuit of their own economic objectives. This commitment is based on the right to economic liberty guaranteed by the Constitution. Members of the “WTO” must consider economic rights while carrying out their commitments under “WTO” agreements. Thus, in order to have a better understanding of “WTO” Members' primary incentives for pursuing international trade, it is critical to investigate the link between the “WTO” Agreements' aims and economic rights. This Art tries to show that there is a relationship between “WTO” aims and people's economic rights in order to urge “WTO” Members to imply “WTO” responsibilities based on economic rights granted in their constitutions.

Keywords: “WTO”, members, India, rights, economic, constitution.

Introduction

In 1994, the Uruguay Round brought together over a hundred countries to protect the “interests of countries of all sizes, phases of development, and economic systems in WTO.” All members presented their “national economic issues and trade policies in Marrakesh. Furthermore, during “each WTO negotiation session, members focus on discussing trade obligations among themselves, ensuring that the WTO remains focused on multilateral and bilateral trade discussions.” These members have trading duties with one another. The “WTO”, on the other hand, not only accommodates duties among members, but also accommodates government commitments to its population. A national constitution may guarantee economic rights, but these obligations fall on the government. Individuals may pursue their economic interests across borders with this privilege. A government must establish trade regulations and methods for its citizens to pursue their economic interests across frontiers in order to accommodate this right. As a result, a government must pledge to protect economic rights beyond national borders by joining organisations like the “WTO”.¹

International commerce is a fundamental aim for members of “WTO”, and this commitment extends to the government and its people, who are obligated to protect their economic rights under “WTO” rules, according to this Art. Because of this, the purpose of this Art is to urge other members of the “WTO” to link their objectives to the economic rights granted by their countries' national constitutions.

¹ Bosche, Peter den. and Z. Werner, “The Law and Policy of the World Trade Organization: text. cases and materia” (CU Press 2013).

“WTO” and Economic Rights: A General overview

The “WTO” Agreements include two tiers of obligations. Obligations between “WTO” members and persons in the jurisdictions of other “WTO” members are the first kind, followed by those imposed by a government on citizens within its jurisdiction. Trade regulations and methods must be put in place by the government in order to allow its people to pursue their economic interests beyond the border. Individual economic actors' activities on national and global markets determine many of the benefits that members are expected to get as a consequence of the adoption of different GATT/“WTO” regulations. One of the fundamental goals of the GATT/“WTO” as a whole is to create market circumstances that will enable this particular activity to grow. As a constitutional right provided by the nation's constitution, the government has a duty to develop trade regulations and processes that promote and defend citizens' freedom to undertake economic activity across borders. It is difficult for these people to make money without legal assistance and protection from the government, which includes both national and international legal assistance. “Economic freedom, the right to labour, the right to own property, the right to trade or do business”, and other rights associated with economic activity may be included in almost every contemporary national constitution in various formulations. In order to participate in any economic activity, such as the production of products or the provision of services, or to sell or buy items, or to distribute goods and services, all of these rights must be upheld by everyone. In order to ensure that everyone may pursue their economic goals in accordance with the national constitution, the government must protect the economic rights of people.²

Citizens' economic interests are protected by the Constitution. In the “EU” Charter of Fundamental Rights, for example, there are just a few rights that can be unambiguously characterised as contemporary and advanced economic rights. Property rights, sometimes referred to as the “right to possess,” are among the most important of these freedoms. The term “possessions” encompasses a broad range of assets obtained through different forms of economic activity. Included in this list are all rights that have an economic worth. The right also includes the ability to make money via entrepreneurship. The “EU” Charter's protection of the right to property clearly encompasses a broad variety of commercial activity. It has been ruled by the “EU”ropean Court of Justice (ECJ) that “EU” treaties provide economic rights to persons. This right, on the other hand, pertains to the creation of a unified market. It is based on economic rights that governments may establish rules and mechanisms that allow people to pursue their economic interests across borders. For example, the regulation of market access to make it easier for people to perform cross-border commercial operations. Economic liberty is secured as a basic right in Swiss Federal Constitution, next in regional legislation, the four essential freedoms are safeguarded by “EU” law, and finally at the global level, where the “WTO” enshrines market access for persons from all “WTO” Members. Individual economic interests are at the heart of extensive international economic interactions, which is why the government has pledged to protect such interests on a global scale by joining organisations

² Ibid.

such as “WTO”. It was Voitovich's assertion, historically speaking, that sparked world trade. As he puts it, "the global economic relation derives from the common interest of states which is influenced by individual economic interest within the country, to meet this common economic interest, states therefore construct extraterritorial economic agreement which is creating international legal rules." Since it has historically been impossible to attain several goals in national economic policy at the level of the nation state in Western society, interdependence among states in economic activity makes sense to him. Aside from global laws for liberalisation and non-discrimination, an international intervention is therefore required to achieve the goal of national economic interest alone".³ According to GA Resolution 1974, national economic interests really reflect individual economic interests that might be the major rationale for adhering to international law in cross-border economic activity.⁴ This conclusion can also be drawn from its main premise. Every country's desire to benefit its citizens in the long run is at the heart of international economic law. Inter-national economic interactions may have an impact on people because of the strong link between international standards and local norms in today's society. Increasing economic interdependence means that people will have more opportunities to do business and earn more money, which will have a direct impact on their quality of life. People in the country may be anticipated to demand more from their government in terms of international economic ties as a consequence of this, and this could lead to a more confrontational approach from people. Ultimately, the goal of a government's decision to join the “WTO” is to help its citizens achieve a wider economic advantage by enforcing economic rights.

The “WTO” agreement’s preamble underlines that the members are, “Recognizing that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development.” As stated by the “WTO”, its fundamental goal is "to raise the quality of life, provide full employment with a big, gradually rising volume of real income and effective demand, and increase production of goods and services". An individual's right to a better quality of life and full employment in the “WTO” is discussed in connection to the economic activities of individuals as a driving force for this development. The “WTO”'s ability to boost global economic well-being relies on the initiative of many people. With an open trade system that promotes employment and economic growth, the “WTO”'s goal of promoting human happiness demands and supports individual freedom and economic rights. In order to defend and improve economic freedom, the idea of economic freedom emphasises the importance of economic rights.

³ Jan Egbert, “Market-Oriented Institutions and Policies and Economic Growth: A Critical Survey”, 2 JES (2006).

⁴ Ibid.

“WTO” and Standard of Living

Negotiated by member governments, the “WTO”'s rules and methods for cross-border trade are known as the “WTO”. The goal of these trade rules and methods is to increase the quality of living for all people through increasing trade in commodities and services and decreasing trade barriers, which all “WTO” members want to achieve.⁵

Tariff concessions and non-trade barriers are seen as guidelines offered to persons in order to make cross-border commerce more straightforward. In order to protect the freedom to benefit from economic activity, they are required to pursue business interests while their governments back them up via constitutional guarantees. The right to property is a major economic right. As a result, the “WTO” becomes a primary goal for every country. Modern economic prosperity has been fueled by the emergence of a solid and durable right to property. When it comes to innovation and accumulating wealth, it seems sense that people would not have a motivation to do so unless they had control over the return on the as-sets that are developed or enhanced. In line with the “WTO”'s stated goal, the protection of property rights will help raise living standards to their maximum potential by ensuring that each person has the freedom to engage in economic activity and reap the rewards of their efforts without being hindered by national policy.

Even the “EU” has witnessed what happens when “WTO” agreements are violated in the name of national economic rights. In the Biret case, the Biret Company claimed injury from “EU” regulations restricting the import of hormone-treated cattle. A “WTO” dispute settlement panel in the Hormone Case found that the “EU”'s ban on the importation of meat and meat products from cattle treated with any of six specific growth-promoting hormones violated the SPS Agreement's provisions and that the “EU” was required to lift the hormone ban absent any scientific risk assessment of harm, as cited by Biret. After the ban on da-mage was implemented, Biret requested compensation, saying that the restriction infringed on the company's capacity to do trade. Damage claims were rejected by the “EU” General Court (GC) because the Court failed to prove improper behaviour by the “EU”. The court also ruled that individuals cannot use “WTO” Agreement clauses to rectify abuses of their economic rights. In the Biret Case⁶, General Advocate Alber contended that the Court's rationale for refusing to follow the DSB Decision violates basic or economic rights. Biret Company is unable to continue its usual commercial activities since the “EU” has opted not to comply with “WTO” regulations, which has a negative impact on its business and economic rights. The “EU” imposed trade restrictions by enacting SPS measures that discriminated between domestic and imported commodities, as well as those who traded such items. As a result, trade restrictions limit a citizen's ability to engage in economic activities. Art 2 (3) indicates that SPS Agreement is designed to prevent a hidden constraint on global commerce and is thus vital for anybody interested in participating in international trade. “EU” Charter Art 16 (freedom to do

⁵ Supra 3

⁶ Appeal — Directives 81/602/EEC.

business) and Art 17 (right to property) prohibit the SPS Agreement's hormone restriction from restricting Biret Company's economic activity under SPS Agreement, which breaches Biret Company's intrinsic right to trade protection under “EU” Charter.

Full Payment and “WTO”

The “WTO” negotiator also established employment-related regulations and systems. 35 For example, the GATT has various employment-related Arts, such as GATT Art XII: “Contracting parties undertake, in carrying out their domestic policies, to pay due regard to the need for maintaining or restoring equilibrium in their balance of payment on a sound and long-term basis, and to the desirability of an uneconomic use of productive resources”, according to para (3)(a). Art 15 of SCM Agreement includes a provision on employment. When assessing the effect of subsidised imports on the local industry, this Art recommends a thorough examination of all economic factors and indicators, including employment, that affect the sector. Conventional methods for assessing the effect of import restrictions related to employment are set out in Art 6(3) of Textile and Clothing Agreement. Art V bis of GATS: The most comprehensive agreement on employment is Labor Markets Integration Agreement. Agreements signed under “WTO” do not exclude any of its members from signing a labour market integration agreement. In addition to “GATS Annex on Movement of Natural Persons Supplying Services”, there are many more rules that apply to employment. This appendix covers measures that impact natural people who work for a member's services provider and natural persons who work for a member's services supplier. Full employment is linked to economic rights, which serve as foundation for all people to earn a living through their work. This right shouldn't be denied by national trade policies since, according to “WTO” law, it is necessary for all persons to profit from cross-border commerce.⁷

Security and predictability in trade: “WTO”

In order to protect individual economic rights relating to trade or business, “WTO” Members should take the appropriate steps to ensure the stability and predictability of trade mechanisms. It also has to do with achieving the “WTO” Agreements' broad objectives, as stated by Panel in Sec 301-310 of US Trade Act of 1974. It states that: “It's not only states that make up the multilateral trade system; it's almost entirely made up of private businesses. Only their individual operators are affected by the insecurity and uncertainty. A major goal of trade system, and one that might be helpful in achieving the overarching goal of WTO Agreements, is to provide security and predictability for international trading systems.” In Argentina – Measures Affecting Imports of Footwear, Textiles, Apparel and ors⁸, as per Law No. 22, which offers importers a procedural right to appeal any tariffs imposed over the set rate, Argentina's government is concerned with maintaining trade mechanisms' stability and predictability. The

⁷ “Annex on movement of natural persons supplying services under the Agreement”, “WTO” (January 20, 2021) https://www.wto.org/english/tratop_e/serv_e/8-anmvnt_e.htm

⁸ Ibid

freedom to trade and do business in Argentina is reflected in this procedural right, which is rooted in the country's constitution. Sec 75 paragraph 22 of Argentina's Constitution of 1994 supports the consistency and predictability of concessions in the country's scheduling responsibilities, Argentina said in this settled litigation. These pledges were given precedence over domestic law since they were at the very top of the legal hierarchy. An interested party may seek that an Argentine court invalidate any activities made in contravention of international treaties, such as “WTO” Agreements.

India, Economic rights and the Constitutional Essence

India does not have the idea of economic rights that we have in the United States. The concept of social and economic justice, in its broadest sense, is significant. As a result, we'll be referring to it as such here. It is important to note that the Indian Constitution recognises economic, social, and cultural rights as DPSPs, which are not immediately enforceable in courts but are designed to influence government policy. Economic, social, and cultural rights in India have increasingly been elevated to constitutional rights status by the courts using the Directive Principles as interpretive aids for civil and political liberties protected by the Constitution. Due to its emphasis on human dignity and the protection of economic and social rights including a decent standard of living and access to healthcare, the Indian SC has broadened the constitutional right to life to include the right to labour and environmental protections. In the *Olga Tellis* case, “a group of pavement dwellers whose livelihoods were threatened by eviction had a right to a fair hearing under the constitutional right to livelihood⁹.” In *Paschim Banga Khet Mazdoor Sabha v. State of WB*¹⁰, the SC ruled that “the government's role to protect economic and social rights may include responsibilities to provide additional resources, such as basic healthcare services.” Similarly, the Supreme Court has used Art 21's right to life and personal liberty, together with Directive Principles pertaining to education, health, and working conditions, to address the working circumstances of child laborers in the carpet industry. All citizens have “the right to practise any profession or carry on any employment, trade, or business u/Art 19 (1)(g) subject to Art. 19(6), which enumerates the types of restrictions that the state may apply on the citizens' aforesaid right.” Art19 (1)(g), grants a broad and sweeping right on all people to engage in whatever form of company they want. However, this does not provide the right to do something that is considered criminal in the eyes of the law, or to do a certain job or occupy a particular position of one's choosing. Furthermore, Art 19(1) (g) does not imply that the state or other statutory authority establish circumstances to make any trade profitable or to obtain clients for the business/businessman. Furthermore, a person whose possession of a location is illegal cannot claim a fundamental right to do business in that location, since fundamental rights cannot be used to justify an illegal act or to prevent a statutory authority from legitimately carrying out its statutory tasks. In light of the regulated and planned economy, the SC affirmed the socially controlled laws in a series of rulings based on directive principles, limiting the operations of private firms to a large degree. However, under Art 19(6), the state is not prohibited from enacting legislation that

⁹ 1985 SCC (3) 545

¹⁰ JT 1996 (6) 43

places reasonable limits on the enjoyment of a fundamental right in the public good. In order to practise a profession, a legislation governing professional or technical credentials is required. Art 19 protects a statute that establishes professional qualifications. Nothing in Sub-clause(g) of Clause (1) of Art 19 affects the State's carrying on of any trade, business, industry, or service, whether to the exclusion, total or partial, of citizens or otherwise, if it is not in the general public's interest. If the State does not engage in any commerce, Art 19 (6) (ii) will not apply.

India and “WTO”: Practical impact

The “WTO” has had a beneficial impact on trade in India, but not as envisaged. The results of the same are given below:¹¹

- Following the “WTO”'s introduction, India's trade volume increased, but not at the same pace as global trade. This is owing to the increased hurdles that the “WTO” has put on the Indian economy.
- India's trade volume was increasing before to the “WTO”. The nation has not only maintained its trend, but has significantly boosted its growth rate. In the present research, India is the only country that has benefited from “WTO” in terms of international prospects.
- Although the industrial sector's share of GDP is small, it has a favourable influence on India's foreign trade. After the “WTO”, the industrial sector in GDP forecasted a positive number, but it was not substantial.
- Even after joining the “WTO”, India's rate of rise in imports is faster than its rate of increase in exports, indicating that the country's balance of trade is still in deficit.
- The agricultural sector has a detrimental impact on India's foreign trade since the “WTO” has raised severe concerns about the industry's performance and food security. Even after the “WTO”, the agricultural sector's negative effects persisted.
- Pre-”WTO”, global GDP had a favourable influence on India's trade, but after “WTO”, it had a negative impact.
- Except for 1991 and 1993, imports remained higher than exports during the whole period before to and after the “WTO”. The slower rate of growth of exports compared to imports has contributed more to the slower pace of trade growth. Within 10 years of the “WTO”, imports continued to expand at a faster pace than exports.
- India's GDP has a significant t-value, but the coefficient is negative, indicating that the influence is negative. Following the “WTO”, there has been a pragmatic shift in India's GDP, which has a favourable impact on the country's trade.
- India's trade volume was increasing before to the “WTO”. The nation has not only

¹¹ “India and “WTO” – Detailed Analysis of All Related Issues and Concepts”, Insight IAS (January 20, 2022) <https://www.insightsonindia.com/2016/01/20/india-and-”WTO”-detailed-analysis-of-all-related-issues-and- concepts/>

maintained its trend, but has significantly boosted its growth rate. India is the only country that has benefited from the “WTO” in terms of international trade prospects.

- Following the “WTO”, India's export and import growth rates both increased. Following the “WTO”, the industrial sector's contribution to the nation's foreign commerce has expanded.

Conclusion and Suggestions

“WTO” law covers not just members' rights and responsibilities to undertake international commerce, but also a government's duty to foster market circumstances that encourage individual economic participation in national and global markets. This commitment is possible in order to assist individuals in achieving higher income and benefits, as well as to promote beneficial outcomes such as improved welfare and full employment, all of which are based on economic rights guaranteed by the national constitution. Despite the fact that the "WTO" does not directly manage economic rights, "WTO Members" developed "WTO" Rules and Mechanisms in accordance with economic rights, which is embedded in the "WTO Agreements" objective. As a member, each member nation's primary purpose is to help its people have access to the benefits of their economic rights via international trade. The "WTO's" goals make it apparent that members participating in international trade under the "WTO's" agreements place a high value on raising living standards and guaranteeing full employment. Although members of the "WTO," such as the "EU," sometimes struggle to defend their commitments merely on the basis of economic rights, international trade costs far more than legal obligations between the "EU" and its inhabitants.

India is a crucial member of WTO and is often referred to as world's most developed and undeveloped countries. The "WTO" makes decisions by consensus. As a consequence, there's a little possibility that anything really damaging to India's interests will be imposed unilaterally. India will gain from the forum's talks on a variety of issues if it engages constructively with diverse interest groups while retaining its developmental goals. We risk losing a platform via which we may organise opinion from like-minded nations against the west's selfish goals if such a body does not exist. Developed nations may readily woo smaller countries to their side due to their tremendous resources. The WTO offers a venue for developing nations to band together and put pressure on affluent countries to make trade more beneficial to poor countries. As a result, India continues to support several development initiatives such as the “Doha Development Agenda”, the “Special Safeguard Mechanism”, and a permanent solution to the problem of public stock holdings, among others. India must keep up its efforts to ensure that important concerns for growth are not overlooked. The “WTO” cannot interfere with India's sovereignty until this is done. When it comes to issues such as agriculture, India has already drawn a red line and said that there is no room for negotiation. The West has worked tirelessly to portray India as a harsh negotiator who would not bend. Developed nations, such as the United States, are more suited to these characteristics. As part of the Doha Development Round, they have been renegeing on a number of promises and attempting to introduce new ones, including Singapore concerns. Majority nations and most people are

adversely affected by these challenges. As a result, after each failed meeting, the bulk of nations side with India. India's diplomacy has to be bolstered. While industrialised countries spoke in harmony during the Nairobi meeting, there was no comparable unity among the developing nations present. Due to its internationally competitive agriculture sector, Brazil, a key “WTO” member, has already broken away from the G-20/33 group and is aligning itself closer to the viewpoint maintained by developed nations. Last year, India and Africa made a concerted effort to agree on a shared agenda for the “WTO” during the India-Africa summit. The shared platform of emerging countries on all continents demands a bigger coordinated effort. US has been doing this for some years and is one of the key reasons for its continued assertiveness and dexterity in negotiations.

As discussed, India has indirectly incorporated the “WTO” principles of trade and economy and even at the international platform has remained true to its own stand. Our Constitution is clearly committed to the fulfilment of economic needs of our society and in the current era of globalization, the same is impossible without liberalization and cross border trade. Again reiterating the same, “WTO” is what regulates the international market and cross border business. Its objectives are indirectly and unknowingly being fulfilled by Indian socioeconomic laws and the Constitution, however, the practical situation as explained is still not at an ideal position. Our Constitution’s principles of socioeconomic justice are in tandem with WTO’s objectives which promote trade which is yet again a fundamental right in countries like India and a worldwide accepted human right. Therefore, the nexus is clear but the implementation of these rights and freedoms needs to improved.

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