

WORKING MECHANISM OF WTO

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ABSTRACT

One of the most effective, influential and powerful dispute settlement systems in the World is the WTO DSS as it enjoys the power necessary to induce compliance and noncompliance can result in deterrent and severe trade sanctions, etc. Even though decisions of the Panel and Appellate Body are available in the public domain, there are arguments that these decisions are taken by trade experts who may not be well conversant with the non-trade considerations and hence, this process has a democratic deficit.

Keywords: WTO, WORKING OF WTO.

INTRODUCTION

Non trade considerations have not been taken care of via Representation but, private commercial interests have been amply represented and an example is the 'Kodak/Fuji case'. On the other hand, NGOs have contributed only indirectly, like by presenting an amicus brief and to top this off, there is nothing to show that these briefs or inputs have been taken into consideration before making any decisions.

A clear manifestation of the democratic deficit in the working of WTO is the case of India-Quantitative Restrictions on Imports of Agricultural, Textile and Industrial Products. Here, the main issue of contention was an import quota placed by India on certain products for the purpose of safeguarding its balance of payments and to maintain enough reserves for the purpose of aiding its development programs. The Appellate Body relied on the opinion of IMF and concluded that the amount mentioned by India as 'adequate' is not correct; however, a noteworthy fact here is that the WTO AB relied on the opinion of the IMF, which has a very limited and narrow understanding and has a monetarist approach to 'development policy' and thus the non-trade

(human rights, etc) considerations were not accounted for and this anomaly could have been avoided had it consulted the UNCTAD, UNDP, etc.[1]

Working of the WTO

Functioning and processes of the WTO are inclined towards the interests and benefit of developed countries and thus, they are bound to be pro free trade and this inclination produces results which are in favor of freer trade and thus, more often than not, they will be in conflict with the other non-trade considerations like environment, food safety, human rights, etc, which are usually the issues that developing countries face Democratic deficit is present in all International Organization and WTO is no exception, but, the prevalence, acceptance and practice of the WTO rules and other features like, behind the curtain negotiations, the single compulsory undertaking, etc inform it's democratic deficit.

The inconclusive negotiations under the Doha Round are testimony to the fact that developing countries and NGOs are on a better footing in terms of representation of their interests in the negotiations as opposed to the earlier scenario where it was easier to achieve consensus due to the sparse negotiating power to these countries and NGOs. This also points to the conclusion that there cannot be a consensus agreement unless certain democratic measures are adopted in the working of the WTO. However, the Research recognizes that an increased democratic basis or a better democratic nature of the WTO process/working will lead to a less effective rule making and in turn, less effective rules.[2]

Alternative Approaches

1. A way to move towards achieving a more democratic system is lowering or relaxing the obligations (single undertaking, etc) and one of the ways can be by providing 'exit options' to the States. Also, a better democratic setting will contribute to the willingness of the member countries to fulfill their obligations under GATT.

2. An increased representation of the NGOs at the decision and policy making levels will ensure that non trade considerations and interests which will not necessarily be considered by the trade technocrats are taken into consideration and policies and decisions are made accordingly.

3. Domestic petitioning for the Government to Represent: The domestic private actors can be empowered to petition their Government asking it to take up a dispute to the WTO DSS and this way, participation and representation can be dealt with.
4. Improved Transparency: Transparency will help in establishing better precedent, predictability and trust and this will lead to a greater legitimacy for the WTO and the WTO DSS.[3]

CONCLUSION

The WTO exhibits characteristics which can be said to be not truly democratic. It has to be acknowledged that it is an international organization and it is trying to achieve global free trade and at the same time it is expected to balance different non trade considerations, which is a herculean task and almost impossible to achieve.

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