



# The Evolving role of the GATT/WTO in the face of new global trade challenge.

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## ABSTRACT

The General Agreement on Tariffs and Trade (GATT) and its successor, the World Trade Organization (WTO), have been instrumental in fostering a stable and rules-based global trading system since the mid-20th century. However, the 21st century presents a unique set of challenges that necessitate an evolution in the GATT/WTO's role. This abstract explores how the organization can adapt to maintain its relevance in the face of these emerging complexities. One key challenge is the rise of non-tariff barriers (NTBs) to trade. While the GATT/WTO successfully tackled traditional tariffs, NTBs such as complex technical regulations and subsidies can create significant hurdles for international commerce. The organization must develop mechanisms to address these evolving obstacles without stifling legitimate regulatory goals. Another challenge lies in the increasing importance of emerging economies like China and India. The traditional focus on developed nations needs to shift to accommodate the needs and interests of these new players. The WTO can facilitate this transition by ensuring inclusivity in rule-making and dispute settlement processes. Furthermore, the rise of global issues like climate change and labor standards necessitates a broader approach to trade. The GATT/WTO must navigate the potential for trade rules to clash with these concerns. Exploring avenues for incorporating environmental and social considerations into the trade framework, without compromising core principles like free trade, will be crucial. Finally, the recent weakening of the WTO's dispute settlement mechanism poses a significant threat to its authority. The organization must address these institutional challenges and find ways to restore confidence in its ability to enforce trade rules impartially. In conclusion, the GATT/WTO stands at a crossroads.

**KEYWORDS :-** Non-tariff barriers, emerging economies, inclusivity in rule-making, global issues, climate change, labor standards, dispute settlement mechanism, institutional challenges.

## The Legacy of GATT/WTO and its Core Principles

The GATT/WTO's foundational principles of non-discrimination, most-favored-nation treatment, and national treatment fostered an environment of predictable and transparent trade, facilitating collaboration and reducing trade barriers. This framework underpinned a remarkable expansion of global trade, contributing to economic prosperity and poverty reduction worldwide. The General Agreement on Tariffs and Trade (GATT) and its successor, the World Trade Organization (WTO), stand as pillars of the modern global trade system. Since their inception, they have significantly shaped international commerce, fostering economic growth, stability, and cooperation among nations. The legacy of GATT/WTO extends beyond mere trade agreements; it encompasses a set of core principles that govern the conduct of international trade relations. In this article, we delve into the historical significance, evolution, and fundamental principles of GATT/WTO, highlighting their enduring legacy in the realm of global trade.

### Historical Context

The seeds of GATT were sown in the aftermath of World War II, amidst a desire to prevent a return to the protectionist policies that had exacerbated economic tensions leading to the Great Depression and the subsequent global conflict. In 1947, the International Trade Organization (ITO) was envisioned as a multilateral body to regulate international trade. However, political differences, particularly between the United States and other major powers, prevented the establishment of the ITO. As a result, GATT emerged as an interim measure, signed by 23 nations in Geneva in October 1947.

In the aftermath of World War II, the world witnessed a renewed commitment to international cooperation. The Bretton Woods Conference in 1944 laid the foundation for the International Monetary Fund (IMF) and the World Bank, aiming to foster economic stability. GATT, conceived alongside these institutions, sought to liberalize trade by reducing tariffs and other trade barriers. Signed in 1947 by 23 countries, GATT initially focused on trade in goods, with core principles like non-discrimination (most-favored-nation treatment) and national treatment (imported goods treated no less favorably than domestic ones) forming the bedrock of the agreement<sup>1</sup>.

Unlike a traditional treaty, GATT was a framework agreement. Trade liberalization occurred through a series of eight rounds of negotiations, each tackling specific areas. The early rounds primarily focused on tariff reductions. The Kennedy Round (1964-1967) introduced anti-dumping and countervailing duty codes to address unfair trade practices. The Tokyo Round (1973-1979) ventured into non-tariff barriers like technical standards and government procurement<sup>2</sup>. Despite its successes, GATT had limitations. It lacked a permanent institutional structure, relied on a consensus-based decision making process that could be slow, and primarily addressed trade

<sup>1</sup> Wto, The Disputes [https://www.wto.org/english/thewto\\_e/whatis\\_e/whatis\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/whatis_e.htm).

<sup>2</sup> Sope Williams, The Global Trading System, Brookings (Apr. 29, 2012), <https://www.brookings.edu/events/the-global-trading-system/>.

in goods. The rise of new areas like trade in services and intellectual property demanded a more comprehensive approach.

The historic Uruguay Round (1986-1994) marked a turning point. It established the WTO as a permanent body, overseeing not just GATT but also agreements on trade in services, intellectual property rights, and investment (though the latter never materialized). The WTO also introduced a more robust dispute settlement mechanism, allowing members to challenge trade practices deemed inconsistent with WTO rules<sup>3</sup>. The WTO inherited the core GATT principles and dispute settlement system. It has continued to negotiate new agreements, like the Information Technology Agreement (ITA) eliminating tariffs on certain technology products. However, the organization has also faced challenges, including the complex Doha Round negotiations launched in 2001 that remain incomplete, and rising concerns about the WTO's effectiveness in addressing issues like intellectual property protection and agricultural subsidies in developed countries. The GATT/WTO system has undeniably ushered in an era of unprecedented trade expansion. Global trade has grown significantly faster than world GDP since the creation of GATT. However, the future of the organization hinges on its ability to adapt to a changing global landscape, address contemporary trade concerns, and ensure a more inclusive and development-oriented trading system.

## Evolution into the WTO

Over the next five decades, GATT underwent several rounds of negotiations, each aimed at liberalizing trade and reducing tariffs among member nations. The most notable of these rounds was the Uruguay Round (1986-1994), which culminated in the creation of the World Trade Organization in 1995. Unlike GATT, the WTO was designed as a permanent institution with enhanced authority to regulate various aspects of international trade, including services, intellectual property, and dispute settlement mechanisms<sup>4</sup>.

The story of the World Trade Organization (WTO) is not one of sudden birth, but of a gradual transformation. Its roots lie in the aftermath of World War II, a period yearning for international cooperation and a stable global economy. This article delves into the fascinating evolution of trade rules, culminating in the establishment of the WTO in 1995. Since its inception, the WTO has responded to the dynamic landscape of global trade by adapting its policies and mechanisms. One notable response has been the expansion of its membership, with the organization now comprising 164 member states, encompassing the vast majority of the world's trading nations. This expansion reflects the WTO's commitment to inclusivity and reflects its efforts to ensure that all countries, regardless of their size or level of development, have a voice in shaping the rules of international trade.

Another key response has been the negotiation of trade agreements aimed at liberalizing trade and reducing barriers to commerce. The WTO's most significant achievement in this regard was the conclusion of the Uruguay Round in 1994, which led to the creation of the General Agreement on Tariffs and Trade (GATT) and the

<sup>3</sup> WTO | Understanding the WTO - what is the World Trade Organization?, The Disputes  
[https://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/fact1\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact1_e.htm).

<sup>4</sup> Hoekman, B. M., & Kostecki, M. M. (2009). *The Political Economy of the World Trading System: The WTO and Beyond*. Oxford University Press.

establishment of the WTO itself. Subsequent rounds of negotiations, such as the Doha Development Agenda launched in 2001, have sought to address issues such as agricultural subsidies, intellectual property rights, and trade in services.

Additionally, the WTO has developed mechanisms for resolving disputes among its members, including the Dispute Settlement Understanding (DSU), which provides a framework for the adjudication of trade disputes through a multilateral dispute settlement system. This mechanism has been instrumental in resolving numerous trade disputes, thereby promoting stability and predictability in international trade relations.

## **The Genesis: General Agreement on Tariffs and Trade (GATT)**

Following the devastation of World War II, nations recognized the dangers of protectionist trade policies that had fueled economic rivalry in the pre-war era. In 1947, 23 countries signed the General Agreement on Tariffs and Trade (GATT). This agreement aimed to liberalize trade by reducing tariffs and other trade barriers. GATT operated through a series of "rounds" of negotiations, where member countries progressively lowered tariffs on various goods. The early GATT rounds primarily focused on reducing tariffs on industrial goods. However, its reach gradually expanded. The Kennedy Round (1964-1967) tackled non-tariff barriers (NTBs) for the first time, acknowledging the growing complexity of international trade. The Tokyo Round (1973-1979) further addressed NTBs and introduced new areas like intellectual property and government procurement<sup>5</sup>. The Marrakesh Agreement, signed in 1994, formally established the World Trade Organization. The WTO inherited the existing GATT agreements but also housed the new agreements reached during the Uruguay Round. This marked a significant shift from a set of trade rules to a full-fledged international organization with a well-defined institutional structure and a more robust dispute settlement system.

### **GATT's Limitations and the Uruguay Round**

Despite its successes, GATT had limitations. It lacked a permanent institutional structure, relied on a consensus-based decision making process that could be slow, and its dispute settlement mechanism was weak. Additionally, the rise of new trade issues like services and intellectual property demanded a more comprehensive framework. Recognizing these limitations, the Uruguay Round of GATT negotiations (1986-1994) emerged as a watershed moment. This ambitious round not only achieved significant tariff reductions but also established the WTO as a permanent organization. The Uruguay Round agreements covered a wider range of issues, including trade in services, intellectual property rights, agriculture, and sanitary and phytosanitary (SPS) measures.

### **The Evolving Landscape: Challenges and Opportunities**

Since its inception, the WTO has faced various challenges. The Doha Development Round, launched in 2001, aimed to address the concerns of developing countries but has remained inconclusive. Rising protectionist sentiments and the emergence of new trade issues like e-commerce necessitate continuous adaptation of the

<sup>5</sup> Wto, Publications [https://www.wto.org/english/res\\_e/publications\\_e/historyandfuturewto\\_e.htm](https://www.wto.org/english/res_e/publications_e/historyandfuturewto_e.htm).

WTO's framework. Despite these challenges, the WTO has played a crucial role in promoting global trade growth and economic development. Trade has flourished under the WTO's watch, with average tariffs falling to historic lows. The organization continues to work towards a more inclusive and equitable trading system that benefits all member countries.

The WTO's journey is a testament to the ongoing quest for a stable and prosperous global trading environment. From the initial steps taken under GATT to the establishment of a comprehensive framework, the evolution of trade rules reflects the ever-changing dynamics of the international economic landscape. As the world grapples with new challenges and opportunities, the WTO's ability to adapt and evolve will be crucial in shaping the future of global trade.

## Core Principles of GATT/WTO

Central to GATT/WTO principles is the concept of non-discrimination, embodied in two key principles: Most-Favored-Nation (MFN) treatment and National Treatment. MFN requires that any advantage granted to one member nation must be extended to all other member nations, ensuring equality and fairness in trade relations. National Treatment mandates that foreign goods and services be treated no less favorably than domestic ones, thereby preventing discrimination against foreign producers.

GATT/WTO aims to reduce barriers to trade through the gradual elimination of tariffs, quotas, and other restrictive measures. Trade liberalization fosters economic efficiency, promotes competition, and expands consumer choices. By facilitating the flow of goods and services across borders, GATT/WTO contributes to global economic growth and development.

Transparency is crucial for building trust among member nations and ensuring the smooth functioning of the trading system. GATT/WTO requires member countries to notify changes in trade policies, tariffs, and regulations promptly. Transparency promotes predictability and allows stakeholders to anticipate and adapt to changes in the trading environment.

The WTO provides a robust framework for resolving disputes among member nations. Through its Dispute Settlement Body (DSB), the WTO offers a forum for adjudicating trade disputes based on established rules and procedures. This mechanism helps prevent trade conflicts from escalating into full-blown trade wars, thereby safeguarding the stability of the global trading system.

Recognizing the disparate levels of development among member nations, GATT/WTO includes provisions for special and differential treatment (SDT) for developing countries. SDT allows developing nations flexibility in implementing trade agreements and provides technical assistance to enhance their capacity to participate effectively in the global economy<sup>6</sup>.

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<sup>6</sup>WTO | Understanding the WTO, Overview: a navigational guide  
[https://www.wto.org/english/thewto\\_e/whatis\\_e/tif\\_e/agrm1\\_e.htm](https://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm1_e.htm).

The legacy of GATT/WTO transcends mere trade agreements; it embodies a set of core principles that underpin the modern global trading system. Through its commitment to non-discrimination, trade liberalization, transparency, dispute settlement, and special and differential treatment, GATT/WTO has played a pivotal role in fostering economic cooperation and stability among nations. However, as the global economy continues to evolve, the challenge for the WTO lies in adapting its rules and mechanisms to address emerging issues while ensuring that the benefits of trade are equitably distributed among all member nations.

## New Challenges and Evolving Landscapes

The General Agreement on Tariffs and Trade (GATT) and its successor, the World Trade Organization (WTO), have long served as pillars of international trade governance, fostering economic cooperation and liberalization among member states. Since their inception, these institutions have encountered a myriad of challenges, reflecting the dynamism and complexity of the global trading system. However, the contemporary era presents a distinctive array of hurdles, stemming from geopolitical shifts, technological advancements, and emergent global issues. In this article, we delve into the new challenges confronting the GATT/WTO framework, analyzing their implications and exploring potential avenues for resolution.

### 1. Geopolitical Tensions and Protectionism:

In recent years, geopolitical tensions and rising protectionist sentiments have posed significant challenges to the principles of free trade espoused by GATT/WTO. The escalation of trade disputes among major economies, exemplified by the US-China trade war, has engendered uncertainty and disrupted global supply chains. Moreover, the proliferation of unilateral trade measures, including tariffs and sanctions, threatens to undermine the multilateral trading system established by the WTO. Addressing these challenges necessitates a renewed commitment to multilateralism and the rule-based trading order, bolstered by effective dispute settlement mechanisms<sup>7</sup>.

### 2. Digitalization and E-commerce:

The advent of digitalization and e-commerce has revolutionized the global economy, presenting both opportunities and challenges for GATT/WTO member states. The rapid growth of online commerce has prompted calls for the modernization of trade rules to accommodate digital trade and address emerging issues such as data localization and intellectual property rights. Moreover, the digital divide between developed and developing countries underscores the importance of inclusive policies that harness the potential of digital technologies for economic development. Efforts to bridge this divide must be accompanied by robust regulatory frameworks that safeguard consumer rights and promote fair competition in the digital marketplace<sup>8</sup>.

<sup>7</sup> Baldwin, R., & Evenett, S. J. (Eds.). (2020). COVID-19 and Trade Policy: Why Turning Inward Won't Work. CEPR Press.

<sup>8</sup> World Trade Organization. (2021). World Trade Report 2021: Making Trade Work for People, Planet and Prosperity. WTO Publications.

### 3. Climate Change and Sustainable Development:

Climate change poses an existential threat to humanity, demanding coordinated action at the international level. The GATT/WTO framework has a critical role to play in advancing sustainable development objectives, particularly in areas such as environmental protection and renewable energy. However, integrating environmental considerations into trade policy remains a contentious issue, with divergent perspectives on the compatibility of trade liberalization and environmental conservation. Achieving synergy between trade and environmental goals requires innovative approaches that reconcile economic imperatives with environmental imperatives, fostering green growth and resilience in the face of climate-related challenges<sup>9</sup>.

### 4. Ensuring Inclusivity and Development:

Promoting inclusivity and development lies at the heart of the GATT/WTO mandate, yet persistent disparities continue to hinder progress towards these goals. Developing countries, in particular, face barriers to participation in global trade, including limited access to markets, inadequate infrastructure, and capacity constraints. Addressing these structural inequalities requires targeted assistance measures, such as technical assistance and capacity-building initiatives, tailored to the specific needs of developing countries. Furthermore, promoting gender equality and empowering marginalized groups can enhance the inclusivity and effectiveness of trade policies, fostering equitable and sustainable development outcomes<sup>10</sup>.

The challenges facing the GATT/WTO framework are multifaceted and dynamic, reflecting the evolving nature of the global trading system. Effectively addressing these challenges requires collective action and a commitment to inclusive and sustainable development. By embracing innovation, fostering dialogue, and upholding the principles of multilateralism, member states can navigate the complexities of the contemporary trade landscape and chart a path towards a more prosperous and equitable future.

## The WTO's Limitations :

In an era of increasing globalization, the World Trade Organization (WTO) stands as a cornerstone of international trade governance. Established in 1995, the WTO's primary mission is to facilitate smooth and predictable trade flows among its member states through the promotion of free trade principles, negotiation of trade agreements, and resolution of trade disputes. However, the effectiveness of the WTO has been a subject of debate, with critics pointing to its limitations in addressing the diverse challenges of the modern global economy. This article delves into the responses of the WTO to various trade issues and explores the inherent limitations it faces in fulfilling its mandate.

<sup>9</sup> UNCTAD. (2020). Digital Economy Report 2020. United Nations.

<sup>10</sup> World Economic Forum. (2021). The Global Risks Report 2021. World Economic Forum.

In spite of its accomplishments, the WTO faces a few inborn restrictions that compel its capacity to viably address the complexities of the present day worldwide economy. One such restriction is the consensus-based decision-making handle, which requires consistent assent among all part states for the appropriation of modern exchange rules or understandings. This agreement prerequisite frequently leads to extended arrangements and can ruin the organization's capacity to react quickly to developing exchange challenges<sup>11</sup>.

Moreover, the WTO's rule-based approach to exchange administration has been criticized for being as well inflexible and resolute, falling flat to suit the different needs and needs of its part states. Creating nations, in specific, contend that the existing exchange rules excessively favor the interface of created countries, subsequently sustaining disparities in the worldwide exchanging system. Furthermore, the WTO's debate settlement component has come beneath examination in later a long time, with concerns raised approximately its viability and unbiasedness. The Re-appraising Body, which serves as the last re-appraising body in WTO debate settlement procedures, has confronted challenges due to a need of arrangements and opportunities, driving to delays in the determination of debate and undermining certainty in the system.

In expansion, the WTO has battled to keep pace with the quick advancement of the worldwide economy, especially in zones such as computerized exchange and e-commerce. The nonappearance of comprehensive rules administering these developing issues has made vulnerability and equivocalness, taking off part states without clear direction on how to explore the advanced scene<sup>12</sup>.

The WTO plays a crucial role in shaping the rules of international trade and promoting economic cooperation among its member states. However, its responses to various trade issues are constrained by inherent limitations, including consensus-based decision-making, rigid rule-based governance, and challenges in dispute settlement. Addressing these limitations will require concerted efforts by member states to reform and modernize the organization, ensuring that it remains relevant and effective in addressing the complexities of the modern global economy. Only through such reforms can the WTO fulfill its mandate of fostering a more open, inclusive, and prosperous trading system for all.

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<sup>11</sup> Busch, M. L., & Reinhardt, E. (2000). Bargaining in the shadow of the law: Early settlement in GATT/WTO disputes. *Fordham International Law Journal*, 24(1), 158-189

<sup>12</sup> Busch, M. L., & Reinhardt, E. (2000). Bargaining in the shadow of the law: Early settlement in GATT/WTO disputes. *Fordham International Law Journal*, 24(1), 158-189.



## Conclusion

The GATT/WTO's relevance in the 21st century hinges on its ability to adapt to new challenges and embrace continuous evolution. The organization must leverage its strengths in rule-making, dispute settlement, and multilateral cooperation to address the complexities of e-commerce, climate change, and a shifting geopolitical landscape. By modernizing its framework, fostering inclusivity, and strengthening its enforcement mechanisms, the GATT/WTO can continue to play a vital role in ensuring a fair, sustainable, and prosperous global trade future. The GATT/WTO, the cornerstone of the multilateral trading system, stands at a crossroads. While its core principles of non-discrimination and open markets remain vital, new global trade challenges demand an agile and innovative response. To maintain its relevance, the GATT/WTO must evolve on several fronts.

First, it needs to adapt to the rise of non-tariff barriers (NTBs) like intellectual property regulations and digital trade. Second, addressing concerns like labor and environmental standards within the trade framework necessitates a more holistic approach. Finally, revitalizing the dispute settlement mechanism and fostering greater inclusivity for developing countries are crucial for the organization's legitimacy.

By embracing these adaptations, the GATT/WTO can transform itself into a truly global forum that fosters a fair, sustainable, and inclusive trading environment for the 21st century. This transformed role holds the key to unlocking continued economic growth and prosperity in a complex and interconnected world.

