Does International Trade Law Actually Facilitate Greater Global Trade and Economic Relations?

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Abstract

The foundational frameworks of international trade law and international economic law, in theory and principle, are considered to be a form of regulatory mechanism that serves the purpose of ensuring stability in global economic relations and fostering stability, growth, and orderly trade. While the ideologies of this framework have been made clear since the Uruguay Rounds and the initial Ministerial Conferences and Summits of the World Trade Organization (WTO), with said ideologies being deep-rooted within the principles of multilateralism, transparency, and global cooperation, in more recent cases and instances these fundamentals have been put to a test. These examples have largely presented an alternative theory: that these international trade rules and regulations do not hold any binding merit. Many states have opposed multilateral approaches in favour of unilateral negotiations, deep-rooted in the ideals of political realism and protectionism. This posits the core argument that international trade law does not truly fulfil its intentions, as it lacks adequate enforcement and accountability mechanisms which regulate global trade such that it fosters transparency and prosperity. This piece will outline the current status of international trade law and compare its theoretical practice with its practical application to further prove the initial hypothesis.

Current Status of International Trade and Economic Law

To gain an understanding of the arguments to be presented, we must gain an appreciation for what the current status of international trade and economic law is. International law on economic activity and trade is primarily rooted in multilateral trade agreements, national trade policies, customary international law, and the *lex mercatoria*—a series of accepted principles and customary trade practices which informally lay the foundation for international trading frameworks.

All of these written agents interact with each other holistically, setting the regulations under which international economic and trade activity operates and establishing the scope to build and amend mechanisms to ensure the aforementioned principles of multilateralism, transparency, and global cooperation.

Two primary sources are the General Agreement on Tariffs and Trade (GATT) and the WTO Agreements. Initially, the GATT was signed in 1947 and, over the course of the following decades, was subject to numerous amendments, which culminated in the Marrakesh Agreement and formed the WTO as we know it today, with the organization expanding the mandate and attempting to fill in the gaps of the GATT.

These foundational instruments provide the principles of the international trading and economic legal system. The most-favoured-nation (MFN) principle outlines that any trade advantage granted by a state must be extended to all other states, while the national treatment principle observes that goods entering the domestic market must be treated no less favourably than domestic products.

The purpose of these treaties and principles is to foster global trade collaboration and, more importantly, significantly prevent the repetition of trade barriers and protectionism. Furthermore, the execution of these principles within WTO frameworks is protected, enforced, and practiced through the WTO's Appellate Body (AB) and Dispute Settlement Understanding (DSU).

The dispute settlement system operates in three main stages: consultations, adjudication by independent panels, and implementation of rulings—with retaliation permitted in cases of non-compliance. A particularly novel feature is the Appellate Body (AB), a standing body of seven independent jurists empowered to hear appeals on questions of law. Rulings of the Appellate Body, once adopted by the Dispute Settlement Body (DSB), are legally binding on the parties.

Furthermore, documents such as Resolution 3281 of the United Nations General Assembly, under Articles 1 and 2, outline that a state can choose its own economic system as well as carry out activities it deems fit for its economic expansion. The reiteration of these principles, laws, and agreements lays the foundation upon which the arguments for this piece stand and allows us to grasp the intentions under which these documents and ideas were drafted.

The Theoretical Application – It Works

When excluding real-life examples from the efficacy analysis, at face value, the terms of international trade legal frameworks have a greater capacity to facilitate and formalize trade relations. The continuous drafting and abundance of binding commitments not only signal a spirit of good faith between states but also act as constraints on unilateral economic policy initiatives, requiring states and MNCs to plan for long-term commercial activities within a multilateral approach.

The WTO's mandate abides by an idea of good faith, with its primary goal being to ensure the improvement of living standards, create more jobs of higher quality, and promote sustainable development. This ideology of progressive liberalisation acts as a deterrent to trade barriers and excessive protectionism and, in principle, expedites necessary adjustments to economic ties.

In addition, the WTO's settlement mechanisms operate on a principle of reverse consensus, which intends to ensure equitable participation for economically challenged countries. The DSU provides developing countries with extended implementation periods, technical assistance, and expedited procedures—acknowledging the structural inequalities that otherwise disadvantage them in global trade.

At face value, these principles and legal regulations depict international law as sufficient and capable of running global trade on a platform of equality and cooperation. However, this architecture only finds itself useful in a utopian setting, as real-life applications and state power dynamics present a different picture.

The Reality of the WTO Dispute Mechanism

The best way to visualize the failures of the international legal system for trade and commerce is through real-life examples that expose the weak links of the status quo. The collapse of the WTO Appellate Body can be observed in the United States' consistent blocking of new appointments to the Appellate Body beginning in 2017. This escalated in 2019, when the body no longer had the required quorum of three members to address appeals.

In this instance, the United States successfully utilized its position within the global order, as well as the structure of the AB system, to satisfy its politically realist agenda, rendering the body redundant. The implications of falling short of the required quorum are significant: panel rulings are not adopted if appeals cannot be heard, meaning they cannot legally be enforced and instead function only as recommendations.

This effectively equips any WTO member with a veto power, rendering the settlement mechanism legally inoperable. As of April 2025, there were over 25 panel rulings with seemingly no enforcement or effect. The European Union, along with certain WTO members, attempted to mitigate this issue through a Multi-Party Interim Appeal Arbitration Arrangement (MPIA), but this has not seen substantial success.

While the intentions of the WTO have been clearly outlined, they lack the necessary legal strength and systemic enforcement capacity to ensure effective accountability and adequate representation of smaller, developing nations in cases of unfair trading practices.

Power Dynamics & Economic Relations – The Case of the US-China Trade War & Developing Nations' Perspective

The American practice of tariff imposition has often been considered infamous, and the trade conflict between the U.S. and China provides a valid example of the incompatibility between international law and economic relations.

The U.S. imposed tariffs exceeding $400 billion on Chinese goods. As deemed by a WTO dispute panel, this policy measure contradicts the principles of Articles I and II of the GATT, as the U.S. was unable to justify these measures.

While instruments such as UNGA Resolution 3281 affirm that states have the right to pursue economic policies as they see fit, including tariffs and quotas for domestic protection, such actions are only permissible if justified and not intentionally harmful to another nation.

The U.S.'s motives were further clarified when U.S. Representative Robert Lighthizer labelled China as an adversary, suggesting that these tariffs were politically motivated attempts to curb

China's economic rise. Despite WTO rulings, the U.S. persisted with its tariffs, demonstrating the inability of the WTO to enforce compliance against powerful states.

Moreover, developing nations face additional barriers, including lack of legal expertise, limited economic leverage, and fear of retaliation from powerful states such as the U.S. and China. These factors discourage them from pursuing legal action against unfair trade practices. Even when developing countries succeed in disputes, the available remedies are often ineffective. Trade sanctions imposed by smaller economies have negligible impact on larger economies, while the reverse is not true.

Conclusion

From this analysis, a clear conclusion can be drawn regarding the efficacy of international trade and economic law in promoting economic development and trade relations. The current structure of international law, alongside the mechanisms of multilateral trading organizations such as the WTO, reveals a stark disconnect between the rule of law and effective enforcement.

The initiatives designed to promote multilateral cooperation have, particularly in recent applications, been rendered ineffective, with several states opting instead for unilateral negotiations. This shift towards unilateralism has significant implications, including the disproportionate negotiating power of certain states.

As demonstrated by the actions of countries such as the United States, China, and Russia, the regulations set forth by multilateral organizations often fail to match the political and economic capital these states possess. Developing countries, lacking comparable resources, are unlikely to effectively utilize WTO mechanisms and may instead yield to the influence of more powerful nations.

The case studies, underlying principles, and evident lack of enforcement all support the central argument of this piece: that international trade and economic law often functions more as a symbolic framework than as a binding system of governance. This exposes a broader issue within the international order, one that risks undermining the integrity of global trade and the prospects of equitable economic growth and development.

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