

## GLOBALIZATION FAIL – BARRIERS TO FREE INTERNATIONAL TRADE

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### **Abstract**

*It is a well-acknowledged fact that no country can survive in isolation and to achieve an economically strong and stable position in the era of globalization, participation in international trade is a must. Though there are international organizations and bodies governing the trade relations between countries, there are still a number of barriers that come in the way of free trade. These barriers can be categorized as 'Tariff' and 'Non-Tariff' barriers. This paper covers some of the most relevant non-tariff barriers, i.e. technical barriers to trade and sanitary and phytosanitary measures as well as its effects on the domestic and the international markets of different nations. Along with this, the present paper also critically evaluates other regulatory provisions of WTO relevant to the subject. The researcher has tried to elucidate how the developed countries use the WTO Agreements to their advantage creating unnecessary obstacles to trade for the developing countries. It also highlights how the states have been exploiting the concept of 'Globalization' for their own benefits but in disguise and how in a literal sense the concept of 'Globalization is Failing'. This work is an attempt to prove that the literature and theory of International laws differ from what is practiced to a very large, rather extreme limits. The researcher has also tried to discuss the focus areas wherein no relevant literature is available and much work needs to be done in the International scenario as far as unearthing and interpreting literature from the trade perspective of developing and least developing countries is concerned.*

**Keywords:** *Globalization, International Trade, Free Trade, World Trade Organization, Barriers To Trade, Non-Tariff Barriers, Literature, Developing Countries.*

### **INTRODUCTION :**

If we walk into a store and are able to buy French blue cheese, Italian tomatoes, Iranian saffron or Brazilian Coffee, we are experiencing **International Trade**. International trade permits the nations to develop their markets for both goods and services that otherwise may not have been accessible. Fundamentally, global trade gives consumers and countries the opportunity to have access to goods and services unavailable domestically. The process of selling products in the global market is called 'export' and a product that is bought by a country from a global market is 'import'. Globalization is the strengthened cross-border exchange of goods and services, investments, sharing of technology, exchange of ideas and information, legal systems and the people – is both strategically beneficial and hence advisable and irreversible. In fact, globalization aims towards Free Trade; No borders – Open markets.

It is the International Trade that enables us, as consumers to be able to choose between an American, Japanese, Korean or German automobile. Although the exchange of goods and services between the countries boosts the 'World Economy', it also adversely affects the various factors such as the prices, supply & demand and at the same time gets influenced by global events, for example, the recent outbreak of the pandemic condition namely Novel Coronavirus, political amendment in a continent, etc.

Recently we have witnessed the breakout of the deadly 'COVID-19' Virus which has not only created a state of panic but also impacted the global trade and the global society. The spread of the coronavirus

has created a global health crisis and at the same time has marked a turning point in changing the global economy by posing a serious risk to economies, creating interruptions in people's movement, bringing the manufacturing of various large and small scale industries to a halt and thus ultimately affecting the supply chain which inadvertently changes the entire dynamics of the 'World Economy'. In the past two months, countries after countries got engulfed in the wave of Corona - China, the USA, Italy, France, India and many more. Many cities across the globe have been locked down to fight the virus and this would gradually result in the rise in the cost of labour, thereby increasing the manufacturing cost of various products, which would eventually result in a further increase in the prices that the consumers would be shelling out to buy different products at the local markets.

For instance, Communication and Tech giant like Apple Inc, although being an American company assembles its communication devices in China, for which it procures various components like the camera sensors by Samsung from Korea, its display by Samsung and LG from Japan, the system-on-chip that it uses manufactured by TSMC from Taiwan and Samsung from Japan. The outbreak of Corona has caused economic disruptions not just in China but also in the USA. China's factory output posted the sharpest plunge in three decades in January and February 2020 as the entire country was under quarantine measures. The USA share trading halted and the market fell by 9%. The economic impact is mounting with the slowdown of global growth to under 2% as countries like Italy, Spain, France, Japan, Korea, Taiwan and many other European countries have restricted business activities sending ripples around the world. The novel Coronavirus in China has left the production of the Apple iPhone in limbo.

Going back to the history of International Trade, we can find its traces centuries back when the barter system existed. But considering the modern era of International Trade, i.e., after the World War II, all the countries were completely destroyed and devastated in a way and it was realized that no country could survive in isolation and to regain their lost economy, growth and positions in the world economy, it was very necessary to have trade relations with other nations. Later in 1946, Bretton Woods Conference was held that established the IBRD – World Bank and the IMF. This international economic model was taken up to stop wars & recession as well as to evolve a better international monetary system that could promote international financial co-operation and to stabilize the economies. Along with the IMF and IBRD, the ITO (International Trade Organisation) was designed to be the formal global organization to manage trade in the post World War II era.

Ultimately, the political disagreements between nations, i.e; the US senate was really not happy with the structure of the ITO and it also wanted GATT to be implemented immediately, spelled the end of the ITO and thereafter in 1947, as many as 23 countries gave their consent to implement GATT (General Agreement on Trade and Tariffs) and almost after eight rounds of negotiations, the World Trade Organization (WTO) was established. It was 'Globalization' that was indeed suppose to bring us close to the end of 'geography' with borderless trade but it seems that an unfortunate history would be created if the influences brought in by the developed nations are not controlled.

## **W.T.O.**

The World Trade Organisation (WTO) is the only international organization to oversee a detailed set of agreed rules and disciplines covering the code of conduct to be followed in international trade between the nations. WTO also works to secure the conduct of international trade on the basis of non-discrimination which basically deals with the principles of Most Favoured Nation (MFN), Free Trade, predictability, transparency, promotion, competition and WTO also ensures that the developing countries secure a better share of growth in international trade and aims to eradicate the discriminatory treatment in international trade relations, on a par with the significant decline of tariffs and other barriers to trade.

The barriers to free trade can be categorized as "**Tariff barriers**" and "**Non-Tariff Barriers**". The tariff barriers are comparatively easier to tackle as they can be dealt with (i.e; with experience and

expertise) by the change in trade patterns, national regulatory measures, economic unions, national policies of development and cutting down on procedural difficulties.

But the most difficult to manage and eliminate are the non-tariff barriers. If we go back to the timeline, the Non-Tariff Barriers was the most unfortunate development of the New International Economic Order in the late 1980s when the world was facing a global recession. The developed nations couldn't bear the burden of tariff reduction, contribution towards financial aid to the developing nations and lowering of customs duties over a period of about forty years after World War II and this triggered the substitution of non-tariff barriers for the tariff barriers by the developed nations.

Most of the non-tariff barriers are in the form of technical regulations, sanitary- phytosanitary measures, standardization, production and process method, testing procedures, environmental concerns – ‘green trade barrier’, packaging - marking - labeling requirements etc. The bearing of these standards and technical regulations that are failing the concept of globalization - is at the forefront of policy discussions over ‘International Trade’ throughout the world.

Hence, in the present article the researcher has identified the **problems** faced by the developing countries relating to technical barriers to trade and how these barriers are being used by the developed nations to safeguard their own markets from the competition and destroy the aim of ‘globalization’ in the disguise of fake concerns. The **objectives** that the researcher intends to address, herein, are as follows :

- To examine the practices of states in creating barriers to international trade and to categorize such barriers into its different types.
- To study the practice of ‘protectionism’ by the way of technical specifications and standard regulations applied to imported goods and services by the developed nations.
- To prove how the developed countries are failing the concept of globalization.

By giving an eagle’s eye view the researcher has drawn a **hypothesis** that most of the provisions in the WTO legal regime that intends to safeguard human health, animal and plant life are indeed protectionist measures in disguise that create ‘unnecessary’ barriers to trade. The technologically advanced countries use technical specifications and standard regulations - relating to the protection of human health, animal and plant life & safety (environment protection at large), for safeguarding their rights to protect their own domestic trade interests and to cut down the competition from other countries. With this protectionist attitude, the developed countries are actually weakening the objective of globalization which was meant for helping all the nations to stabilize and help their economies prosper.

As the WTO, through its various agreements/provisions relating to trade and environment ensures to safeguard every interest of the developing countries to shelter their growth in international trade on equal footings as that of the developed countries, but the developing countries still face persistent constraint in disseminating best practice information on standards and resources required to aid in the implementation of apt procedure and method. Domestic as well as international barriers to trade that are echoed in technical regulations have become a dangerous channel through which trade is obstructed. For a better understanding of technical barriers that the developed countries require the developing countries to be applied on goods and services before they are exported, the researcher has tried to simplify and explain the meaning of technical barriers in the table below:

As per the WTO publication on Agreement on Technical Barriers to Trade, the ‘Types of Technical Barriers’<sup>are</sup> as mentioned below, taken from,

<https://www.oecd.org/gov/regulatory-policy/LIM-WTO-TBT-Agreement-6-Principles-Session-3.pdf>

<i>Technical regulation</i>	<i>Standards</i>	<i>Conformity assessment procedures</i>
<p><i>“Technical regulations lay down product characteristics or their related processes and production methods.</i></p> <p><i>Compliance is mandatory.</i></p> <p><i>They may also deal with the terminology, symbols, packaging, marketing, and labeling requirements.”</i></p>	<p><i>“Standards are approved by a recognized body which is responsible for establishing rules, guidelines or characteristics for products or related processes and production methods.</i></p> <p><i>Compliance is not mandatory.</i></p> <p><i>They may also deal with the terminology, symbol, packaging, marking and labeling requirements.”</i></p>	<p><i>“Conformity assessment procedures are used to determine that relevant requirements in technical regulations or standards are fulfilled.</i></p> <p><i>They include procedures for sampling, testing and inspection; evaluation, verification and assurance of conformity; and registration, accreditation, and approval.”</i></p>

**Technical regulations** are the pre-defined requirements that the developing nations have to mandatorily comply with. There could be variation in the types and product coverage: they could be specific, eg; relating to Volatile Organic Compounds used in the paint on toys, or prohibiting the use of Monosodium Glutamate (food color) in food products. Other measures may be more general in nature, such as labeling requirements for organic agricultural products, or emission control requirements for fuel engines. The commonality between them is that through interventions by the state bodies in the form of regulation, policy, domestic enactments etc, market access is dependent on fulfilling the requirements set out in the technical regulation.<sup>1</sup>

**Standards** are usually developed by different governmental and non-governmental bodies to manage supply chains or reciprocate to consumer concerns such as social, environmental, food safety, or ethical specifications. Recently there have been extensive discussions in the TBT Committee on the topic of ‘private standards’ as these standards are not enforced by law. The private bodies that are non-WTO bodies and the standards given by them are considered ‘voluntary’, yet they may de facto affect market access. Although they are not mandatory like the technical specifications, standards are, however, regularly used as the ground for the technical regulations and conformity assessment procedures. The government intervention makes the requirements laid out in the standard mandatory.<sup>2</sup>

**Conformity assessment** procedures are used to find out if the goods or products such as toys, electronics, food & beverages fulfill the requirements settled by relevant technical regulations or standards. They build confidence in the consumers to believe in the probity of products and add worth to manufacturers' marketing assertions. The conformity assessment procedures include inspection, testing and certification procedures. Different types of conformity assessment procedures affect trade differently but a major issue from the perspective of the WTO is choosing which conformity assessment procedure to use in a particular circumstance.<sup>3</sup>

The major problem which exists in international trade is with the developing countries as the developed countries demand or allow products that have gone through certain tests and certifications or which are made by use of prescribed technology. The state that sets down the product standards, communicates its ‘product characteristics’ and ‘standards preference’ to offshore consumers and suppliers. But it is

<sup>1</sup> [www.wto.org](http://www.wto.org) – WTO’s Agreement on Technical Barriers to Trade

<sup>2</sup> [www.wto.org](http://www.wto.org) – WTO’s Agreement on Technical Barriers to Trade

<sup>3</sup> [www.wto.org](http://www.wto.org) – WTO’s Agreement on Technical Barriers to Trade

not completely possible for the developing countries to fulfill these criteria as they lag behind in technological expertise, and as a matter of fact, even the infrastructure and finance for such tests.

The developing countries have their markets in developed countries but if these restrictive conditions are imposed on them, it becomes difficult to compete and survive in the international market. In the areas of safety and health, the ‘technical intensive testing’ and ‘certification system’ are often needed to assure that the final product meets the standards. When the developing states take steps towards meeting import requirements in conformity assessment as well as mounting defense in WTO cases, the paucity of the infrastructure creates a huge problem.

The WTO allows every country to make and enforce certain technical standards while importing goods and rendering services but the standards laid down by the developed countries i.e; their domestic standards are higher than the internationally accepted standards and meeting such standards becomes difficult for the developing countries due to various reasons such as economic conditions, lack of technological know-how, scientific labs, assistance in services etc and it acts as a technical barrier to trade. Preferential and discriminatory practices are carried out in the backdrop of such ‘required standards’. The developed countries simply fail to transfer technologies that are needed to meet the standards.

It is necessary to discuss here as to ‘what are **international standards**?’ or ‘who decides whether a standard is an internationally acceptable one?’. Unfortunately, the World Trade Organization is absolutely silent on this issue and this question remains unanswered. The sovereign states – being their own masters – could take measures ‘**necessary**’ to achieve their policy objectives at the levels they consider ‘**appropriate**’. The question that again catches attention is as to what is the definition of ‘necessary’ and ‘appropriate’? There is **no parameter** for defining the same.

Secondly, it can be highlighted that there is **no definition** available for ‘developed’ and ‘developing’ nations in the WTO regime. Member states declare the other states “developed” or “developing” nations depending on their vested interests. However, it is open for the other WTO members to challenge the decision of such recognizing members through the provisions available in the WTO legal regime. It is generally the preference giving state that determines the list of developing countries that will benefit from the preferences.<sup>4</sup> There are again no parameters for unmistakable identification of a country to be a developed or developing nation. Considering only the fiscal or economic status of a nation to decide if its a ‘developed’ or ‘developing’ economy is not sufficient. This is a huge **limitation** to this study.

Further, various WTO agreements contain provisions for technical assistance to needy countries and even transfer of technology ‘**on request**’. WTO does not mandate the states to transfer the technology on equitable principles. WTO Agreements, such as the Agreement on Tariff Barriers to Trade (TBT), Agreement on Sanitary and Phytosanitary Measures (SPS) as well as GATT Article XX (exceptions) reflects the provision for ‘transfer of technology’ which the Members (signatory nations of WTO Agreements) are expected to follow. But the question is who would like to estrange the very technology that makes them supreme? Sharing the technology would mean alienating the supremacy of holding a particular technology. The developed countries would never compromise with their superiority as they know that the developing countries are self-sufficient in labour content, local raw material, naturally available resources etc, and if they get the technology too then that would be a big threat to the pre-eminence of the developed countries. Hence the developed countries are in no mood to share the technology and on another hand, the developing countries cannot afford to buy the said technology.

In the garb of protecting the environment- human, animal and plant health, the developed states put forward standards that are out of the reach of exporting developing states and this ‘**protectionist attitude**’ acts as a big obstacle in the way of free trade. On one hand the Environmental Law and Human Rights Commission take a stand for the protection of the environment and lay down laws for the same which are ‘**soft laws**’ and act as barriers to trade ‘in disguise’ and on the other hand the trade laws which

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<sup>4</sup>Student paper submitted to Northumbria at Newcastle

are ‘**hard laws**’ talk of free trade. The WTO principle on ‘Safety Values’ as well allows the member states to take necessary measures to safeguard the human, animal and plant health. This principle of WTO is a device in the hands of the developed nations to exploit third world countries. In other words, the environmental law is restrictive in nature in comparison to the trade laws, which are in a way misused by the developed states for safeguarding their own markets by preventing others from entering their markets and further cutting down on the competition, the developed states practice discrimination in disguise.

Serious distortions in the market are produced due to the mandatory regulations imposed by the government at the borders. The environmental health or safety mandates are not based on international norms and the domestic regulatory system restrains trade and limits market entry. This type of market access may or may not be discriminatory with the background of WTO discipline, including commitment shouldered by WTO members in agreements of Technical Barriers to Trade (TBT) or focused on product or processes standards related to goods and services; but this stands contrary to the trade interests of developing countries.

The WTO does not by itself make any law to regulate the arbitrariness practiced by the developed countries in the application of technical standards. There are other non-WTO bodies (Standardizing bodies like Codex Alimentarius, etc) that frame norms on the same in such a manner that they get automatic authentication and recognition in the WTO. To resolve the disputes concerning food safety and consumer protection, the World Trade Organization recognizes Codex Alimentarius as an international reference standardizing body. This body was first formed by mostly European nations. The framework and the functioning of the body were structured in a way that could meet the requirements of the developed nations. Later these standards were and still continue to be imposed on the developing nations.

These non-WTO bodies mostly belong to the developed nations whose standards are way too high, which comes into mainstream law/agreements and become mandatory and creates pressure on the developing countries. If we go back to the history of the UN, we can see that it couldn’t escape some complications that had tormented the League of Nations. The organization’s proper functioning required that international organizations including WTO and most of the countries commit themselves to the objective of New International Economic Order after the devastating effects of World War II, but even today the organizations do not commit themselves to the extent they were expected to.

Other barriers that are created by the developed countries on the basis of health and technology i.e; in the form of Sanitary and Phytosanitary measures and Technical measures serve the application of food safety. All the countries try to retain measures to confirm that food is safe for future generations and to avert the spread of pests or diseases in plants and animals. These measures are embraced to safeguard human, plant and animal life (the food that is consumed). In the disguise of the environmental concerns, these measures can be tools in the hands of the developed nations for preventing the developing nations from entering into their markets. This is how the developed nations safeguard their domestic markets by cutting down on the competition.

In this manner the developed countries continue to impose such high standards that are beyond the technical competence and scientific know-how to comply with them. The developed countries while framing the standards do not contemplate the developmental, fiscal and trade needs of developing countries or technical and scientific tests related difficulties that are faced by the developing countries. Even if it is true that the developing countries are involved in the “standards making” process, still it should not be forgotten that these developing countries are politically influenced by the developed nations as these developing countries depend extensively on the developed countries for their existence. Hence, in a way, the developing nations hardly have a say in the ‘standard making’ process and their needs and problems are not answered as mentioned in different trade-related agreements.<sup>5</sup>

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<sup>5</sup>As early as 1997 delegations to the TBT Committee agreed to explore ways and means of enhancing Members' awareness of, and participation in, the work of international standardizing bodies. In 2001 (at the Doha Ministerial Conference), Members

The problem is further compounded due to the lack of willingness on the part of developed countries to transfer to the developing countries more advanced and better technology at “fair and reasonable cost”. Nonetheless, the perspective of developing countries' export subsidies is one of the most damaging. Further, various quotas based on technical specifications granted to different countries create barriers in the free flow of trade or globalization.

If we analyze the ‘Globalization’, it has lopsided effects on both the economically stable and unstable nations. The swift and increasing growth of international markets has not witnessed the corresponding progress of economic and social institutions to make sure inclusive, sustainable and balanced growth. The rights of the labour have been heedlessly guarded than capital and property rights. The global rules on trade and finance are discriminatory as well. The interdependence amongst the developed and developing nations transforms into the dependence of the developing nations on international markets that operate under the control of the developed nations. Hence, Globalization also invades an adversarial way of cultural integrity, social stability and economic sovereignty.

One of the limitations trailing the UN and other international organizations is the Security Council – the ‘Big Five’ (USA, UK, Russia, China & France). The Security Council has the task of coordinating the efforts of all the UN bodies to secure world peace but the permanent members of the Security Council are equipped with the ‘nuclear power’ and often use it to threaten and provoke each other thereby creating a tense situation in the international trading system as well. Similarly, WTO also doesn’t reflect international representation and has always tangled itself in matters based on political drives and strategic interests. These power blocs take up this role of facilitating free trade against the regulation and control of WTO. The small nations still agitate for equal treatment at par with the big nations. WTO is failing to recognize the actual distribution of powers and equal trade opportunities in the world. In fact these so-called ‘big nations’ should step back creating a way for the upcoming nations whose stars are rising.

Coming to the Service Sector, the General Agreement on Trade in Services - GATS, is envisioned, ‘to provide for a mechanism to overcome the unnecessarily onerous requirements that create barriers to trade in services. However, this is no callous task as the barriers are deep-rooted in the domestic regulations, while the barriers related to the goods are usually imposed at the borders. In light of this, the researcher experienced that it is somewhat unfortunate that GATS is one of the more difficult agreements to understand fully, partly because the term “**domestic regulation**” is not clearly defined.<sup>6</sup>

The GATS provisions<sup>7</sup> comprises of the requirement of “applying a given measure in a manner that does not lead to ‘**arbitrary**’ or ‘**unjustifiable**’ discrimination, or a ‘**disguised restriction**’ on trade in services, aims to confirm that a Member’s right to invoke Art. XIV of GATS is exercised reasonably and in a way that does not **unduly** frustrate the rights of other Members.”<sup>8</sup> Again it should be noted that there is no equation to decide as to what exactly is the meaning of ‘unjustifiable’, ‘undue’ etc. Nor can we make out as to what action of the government of any country amounts to ‘arbitrary’ and what measure adopted is a ‘disguised restriction’. The meanings of the same shall differ from case-to-case.

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urged the Director-General of the WTO to cooperate with international standardizing bodies and other institutions with a view to according priority to the effective participation of least-developed country (LDCs) Members and facilitating the provision of technical and financial assistance for this purpose WTO (2001b), para. 5.3). For further efforts by Members in this regard, see also WTO (2006), 14 November 2006, para. 77 and WTO (2012a), para.8(b) on the “Development Dimension”.

<sup>6</sup>See WTO’s General Agreement on Trade in Services, Generally speaking, the six paragraphs in GATS Art. VI might be best understood as mandatory “good governance” provisions. Only Art. VI:3 actually mentions the term “regulation”, referring to “domestic law and regulations”. Indeed, para I and 4 of Art. IV refers to “measures”, which are broadly defined under GATS Art. XXVII (definitions) to include laws, regulations, rules, procedures, decisions, administrative actions, etc.

<sup>7</sup>WTO Analytical Index: General Agreement On Trade In Services at [https://www.wto.org/english/res\\_e/booksp\\_e/analytic\\_index\\_e/gats\\_02\\_e.htm](https://www.wto.org/english/res_e/booksp_e/analytic_index_e/gats_02_e.htm)

<sup>8</sup>See WTO Dispute: US – Gasoline, WT/DS2/AB/R, 22; also US – Shrimp, WT/DS58/AB/R, para. 156.

The developed nations create immense pressure on the developing nations to give open access to their service markets to the dominant foreign-based, non-profit corporations belonging to the developed nations. The GATS is said to be a flexible agreement, wherein the member nations are free to choose and lay specific services on the key sectors. Isn't this a mockery of GATS assertions? The developed nations further seek commitments from developing nations in terms of energy, finance, environment, tourism, water, distribution and transportation services. The Power conglomerates of the business world like the US Coalition of Service Industries and European Service Forum are aggressively pushing the developing nations to take up obligations. And once these obligations are accepted, they are 'effectively irreversible'.<sup>9</sup> As a result, the potential of the developing nations to orchestrate their own competitively operating service sectors in the international market is otherwise also trivial and is further becoming negligible making these negotiations very partisan.

Developed nations are manipulating the service sector just as a self-serving trade interest. The WTO has overlooked the frequent appeals of developing nations for an elaborative appraisal of the social, environmental, gender and progressive impact of service liberalization prior to progressing with the GATS negotiations.

The advantage gained by privatization and liberalization in the service sector is now being consequently monitored and evaluated. For instance the Art. VI(4) of the GATS, illustrates that the government could challenge the unwanted laws and regulations of the other nations, which could be alleged as a masked barrier to trade.<sup>10</sup> Yet, such experiments can shrink the policy-making and regulatory flexibility security of the developing nations. Since most of the developing nations are not well equipped for the policymaking and institutional framework, the prerogative to define, regulate and sustain policy flexibility is vital for developing nations specifically to guarantee that the developmental priorities and strategies of the developing nations are progressive.<sup>11</sup>

WTO seems to have failed to attain an inclusive balance of rights and obligations and the preliminary offers made by the influential international trading nations have been inadequate and discouraging for the developing nations. The developing nations were expecting massive gains under Mode 4 - the movement of 'natural persons' into other countries to render services. Yet it is evident that most developed nations, like the United States of America, shall not make generous offers, specifically with regards to under-skilled and unskilled workers and as of fact, lately the skilled workers too in the Trump Administration; owing to domestic political pressure.

Contrarily, the imminent effects on developing nations, due to losing on the skilled workers in the health or the education sector, etc have not been gauged. Nor have the developed nations acknowledged any obligation to reimburse those countries for the expenses incurred for training these professionals. The manner in which the GATS negotiations have been proceeding, it gives enough reasons to the working personelles regarding job securities, limiting the rights of the workers, weakening real wages and amplified demand in workforce adaptability and all the protectionist approach of the developed nations is creating an unnecessary barrier to trade.

It is a well-accepted fact that for strengthening the economy it is necessary for the nations to contribute actively to international trade and to make a strong position in the international market. But the norms or regulations laid down by the developed nations to be met by developing ones are basically trade restricting, preferential and discriminatory practices in the backdrop of technical standards under the garb of protection to human, animal and plant health.

As a result the economic condition of the developing nations remains weak as they remain stuck in the perpetual circle of poverty and the developed stand strong, exploiting this condition and politically

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<sup>9</sup>See [www.appealgroup.net](http://www.appealgroup.net)

<sup>10</sup>Global Policy Forum, Civil Society Groups Voice Concerns, Public Agenda, 19th July 2005  
<https://www.globalpolicy.org/component/content/article/209-bwi-wto/43786.html>

<sup>11</sup> See [www.globaljust.org](http://www.globaljust.org)

influencing and controlling the dependent, weak economies and the developing countries are still not well-positioned to address these issues.

## Conclusion

Even after having such a reputable image, having earned substantial triumph in carrying out the Marrakesh accords, edifying trade liberalization apart from goods, associated with non-tariff barriers to trade and post-acquisition of intellectual property rights, the World Trade Organization(WTO) has also faced the heat of denunciation from a few member nations and certain civil society organizations for formulating decisions favorable to only a few, making resolutions such that limit the focal point of trade only to the more powerful and favored members of the organization keeping their financial and economic integrity in mind and at the same time have total disregard for the environmental and social affair. The WTO has gone rogue when it comes to maintaining the balance, and intentionally tipped the scales so that the authority is left with the world powers to control the developing nations by exacting and influencing through military weapons among themselves.

With the unending debate on the Agreements i.e; TBT and SPS, the situation becomes more problematic when the Members are free to choose ‘standards’ that they consider to be ‘relevant’ with regards to cross border trade which demands framing of policy on internationally accepted standards. The opinions of the members differ on what the standards are and to what extent the standards are to be followed. The members also strongly gravitate to contradict as to which bodies set standards that are relevant for the purpose of the TBT agreements and SPS measures. The question that arises here is that are all the members equal and are the standards relevant to one and all the members alike? What seems to be ‘relevant’ to the developed nations is considered to be biased by the developing nations.

Similarly, there is no clarity as to which authority will determine that a standard is not unnecessarily compelling or is an inept way of attaining a specific policy objective. In point of fact, this is a contradiction in itself. The point being that if the ‘relevant’ standard is unsuitable and inept for a group of countries and not for the rest of the power strapped nations, should it still be termed as ‘International Standard’?

Yes, the Governments do act in their own accord and they have the right to take measures to safeguard their interests and accomplish their policy objectives at the level they consider attainable. But should the ‘international standard’ be accounted for the certainty that the policy objectives may legitimately vary, when different people with different social values, varied predilection and preparedness to take chances. What again adds up as an impediment to international trade are these instances where in order to address genuine policy objectives, like the safety of the environment or preservation of public safety and health leads to alienation of the basic expression of a given ‘international standard’ and cannot by definition be exercised and acts as an unavoidable barrier.

What really matters here is that the ‘**Standard**’ should be rationalized, if it cannot be removed or eliminated, so that it is more counterproductive in its application and minimizes the effect between the domestic and importing firms. This margin of bigotry is still not viewed as unnecessary protection by the developed countries. The analysis of the Dispute Settlement Body at WTO has acknowledged the inadequacies in the adopted procedures, notably in the compliance step of a dispute. Since the Standards chosen by most developed Countries are “**most disruptive**” to trade and absolutely **trade restricting in disguise**, it can be decisively concluded that the analysis of the WTO disputes indicate that the WTO dispute resolution process is very furtive, partisan and concentrates the power in the hands of the developed few.

In order to achieve an “Effective World Trade”, the Super Powers should be persuaded to renounce their supremacy as far as trade is related to an unbiased central authority. The sovereignty of the state is inseparable and so is trade but with all the world dominance and dependability, a nation at times has the last word in its own affairs. “Are we living in a state of anarchy – for we can have allies but we cannot trust these allies as we don’t know their intentions” is an apt statement for WTO. Most nations might even consider this to be too risky in a world where doubt, animosity, skepticism continue to imbue politics in trade relations between the countries.

The key here is to find just the right balance between openness. Openness to understand each and every member's needs, their economies, their contribution to Trade globalization. The developed Nations should allow these Developing nations to flourish. The Central Higher Authority should have unbiased governance and is required for keeping a watchful eye on all transnational activities. Nations that find the golden middle tend to flourish, directing the massive change created for the citizens of that country, to take advantage of the emerging world economy. As for those who could not be marginalized are left behind. The only thing that matters is striking the Right Balance.

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