

Developing Countries' Disadvantages in Maintaining Open International Trading System

Kerui Chen^{1,a,*}

*¹The S. Rajaratnam School of International Studies, RSIS, Nanyang Technological University,
50 Nanyang Ave, 639798, Singapore
a. Kchen027@e.ntu.edu.sg
corresponding author

Abstract: Why do developing countries insist on upholding the principle in the process of WTO reform—that developed and developing countries must maintain the equal discourse system? The purpose of this paper is to analyze the difficulties encountered by developing countries in protecting equivalent discourse system in the process of WTO reform, as well as the challenges in maintaining open trade. This paper provides evidence of three empirical cases. The first case is to study the phenomenon that market entry threshold is caused by the gap of comprehensive national strength proposed by Mexico in WTO and USMCA. The second case is based on the disturbance between China and the United States over enterprise subsidies and technology, which indicates that the political and economic competition between major powers has seriously restricted the opportunities for other developing countries to obtain international trade. The third case stems from the regular session of the WTO Dispute Settlement section. The United States rejected a proposal by 127 members to block the WTO from restarting the Appellate body and the justice selection process, which can explore why the equivalent discourse system supported by developing countries is difficult to practice. This paper aims to analyze the above three challenges faced by developing countries in the process of maintaining the international trading scheme: the difficulty of market development, inter-state competition, and the difficulty of practicing the equal discourse system. Based on this, it puts forward the achievable path of how developing countries could better acquire open and multilateral trade.

Keywords: International trade, Challenge, Reform, Developing countries.

1. Introduction

According to Professor Kaul's definition in 2013, the term “global public goods” or “international public goods” refers to the figurative or abstract products that go beyond national borders and potentially affect all [1]. Although the definition is transferred from economic concept, international organizations recognize global trade stability as an international public good for its universality and non-exclusivity to the international community. An open and free international trading system meets the above definition and is an international public good accessible to all countries. International organizations represented by the World Trade Organization (WTO) ensure the stability of global supply chain and the construction of open trade platform by supporting the principle of fair and free

trade. Similarly, Professor Stiglitz supports in his paper *Knowledge as a Public Good* that the cohesion of the international trading arrangement is an international public good, and the maintenance of this system is an important way to ensure development [2], maintain peace, and mitigate conflicts. However, in practice, although countries with different levels of development can benefit from trade, the open international trading system has been challenged from both bilateral and multilateral levels in an all-round way. Developing countries are at a disadvantage in the process of safeguarding equal trade, and thus suffer negative impacts on their national interests.

Professor Nancy Birdsall and Robert Z. Lawrence in *Deep Integration and Trade Agreements—Good for Developing Countries?* pointed out that although the principle of international trade is based on voluntariness and mutual benefit, developing countries are slowly at a disadvantage in trade, and the cost they pay is higher [3]. In the past decades, the trade imbalance between countries has become more prominent. The challenges facing developing countries already go beyond tariffs and other non-tariff barriers. In today's international trading system, developing countries face multiple checks and balances on intellectual property rights, inconsistent product standards, competitive policies, and disparate environmental standards, which hinder their efforts to connect open trading system and safeguard international trade. Not only is it increasingly arduous to sustain open trade at the WTO level, but even regional trade integration has also encountered problems brought by asymmetrical strength in the concrete practice process. Nevertheless, the maintenance of free trade as an international public good is still crucial to the development of countries. Countries have different political, economic, security and environmental aspirations, but global trade cooperation still constitutes the foundation of stable advancement. Therefore, it is valuable to study the disadvantage of developing countries in cultivating an open trading rule to solve this problem.

In the study of the settlement of trade disputes between developing countries and developed countries in the past international trade, the research focuses on the formulation of tariff policies, but does not pay attention to the market access threshold caused by the gap in comprehensive national strength. For example, Kong Yishu pointed out that to counter the trade protectionist measures imposed by the United States on the import of steel products and aluminum devices from Mexico by 25% and 10% respectively since June 1, Mexico tends to take countermeasures to avoid the escalation of friction, focus on political strikes, and focus on the weakness of US agricultural products [4]. But there is no study of exactly why these precise responses came about and why Mexico is at a disadvantage. Based on this article, I would like to further study whether the developing countries represented by Mexico find it difficult to develop markets in international trade due to the gap in comprehensive national strength.

Studies on the challenges faced by emerging and developing countries represented by China in international trade mainly focus on the spread of China-US trade war. However, Professor Bao Jianyuan mentioned in his article *Comprehensive Opening Up Strategy: Reasons, Challenges and Opportunities* that coping with the trade war is only the first stage, and how to analyze the long-term trade barriers encountered by other developing countries in a deeper level and how to seize the possible market opportunities and development opportunities is the focus of the future research [5]. On this basis, the second case selection of this paper targets at the negative impact of trade conflicts and controversies between China and the United States of chips and EV vehicles on other developing countries since 2022. This case aims to show that unbalanced competition between large developing countries and developed countries is a serious constraint on the access of both these two countries and the world to open international trade, as well as a negative shock on the preservation of global supply chain stability, which is an international public good.

At the same time, measures at the WTO level, such as eliminating trade barriers and coordinating trade and economic relations among countries have been challenged, the indispensable reason is that it is burdensome to practice the equal discourse system between developing and developed countries.

The multilateral trading system is being hampered by inadequate rules and regulations. The third case selected in this paper analyzes the fact that the United States rejected the WTO appeal proposal in 2023 and points out the defects of the equal discourse system reflected behind this phenomenon and the adverse effects.

The analysis of the above three specific cases provides the condition for explaining specific adversities that developing countries have encountered and the reasons behind them, and for exploring how to encourage a free international trading system from the perspective of developing countries on this basis.

2. Reasons that developing countries find it difficult to retain an open trading system

2.1. The gap in comprehensive national strength impedes the market exploitation

If the rules of trade agreements are formulated according to the discourse system of developed members, then the developing members will lack the ability to enter the market and be at a disadvantage. Mexico has been pushing to participate the reform of the North American Free Trade Agreement [6]. The United States-Mexico-Canada Agreement (USMCA), came into force on July 1, 2020, replacing the North American Free Trade Agreement. The reconciliation was negotiated by the United States, Mexico, and Canada. The USMCA stipulates that by 2023, 40 to 45 percent of cars traded between the three countries must be made in the United States, where hourly wages are above \$16 [6], and recognizes this practice as a fair market economy. Mexico's disadvantage in the face of this and its own disadvantage in the process of NAFTA reform stems from the overall national strength gap between other countries in regional trade agreements, which makes trading disputes unresolved.

In 2023, Canada announced it would join Mexico in the WTO as a complainant against the United States' interpretation of automobiles importation in the USMCA, asking the United States to make equal provisions. In addition to previous WTO cases against Mexico, such as the United States' requirement to label Mexican meat products and the United States' censorship on the sale of Mexican tuna, while Mexico cannot have effective responses. Mexico has encountered market access problems caused by the gap in comprehensive national strength in maintaining an open and free trading system. The above reason makes it crucial for developing countries represented by Mexico to open markets in multilateral trade, and they need to endure the unequal rules in free trade.

The comprehensive national strength gap between Mexico and the United States leads to the fact that Mexico meets disadvantages in regional trade agreements, which also motivates Mexico must participate more actively in the maintenance of the international trading system and become a developing country that has signed the most trade agreements in the world.

2.2. Countries' competition restricts and impedes the opportunities of other developing countries to participate in global trade

The Inflation Reduction Act and the Chip Act passed by the United States has hindered China's technology trade, but also caused the United States to counter its own trade development bottleneck, and mainly disrupted the global trade order. Samuel Hardwick and Jason Tabarias argued in *The US Chip Act Hurts Its Asian Partners* that competition between China and the US has hindered other countries' approach to stable supply chains, especially for developing countries [7]. While these policies are designed to sweep economic movements and supply chains away from China, they also have an impact on other Asian economies such as Vietnam, Malaysia, South Korea, and even Japan due to unexpected contracts and standards.

Competition between great powers has led to the instability of the global supply chain, and the supply interruption of chip raw materials and rare earth elements has greatly affected the stable

production demand of developing countries and disturbed the production cost of the entire global supply chain. Worldwide mineral and energy processing involves China and other countries that have not signed free trade agreements with the United States, which excludes them from the Inflation Reduction Act subsidies and severely influences their participation in international trade.

The competition between China and the United States has led to less investment for developing countries. The Chip Act in the United States has attracted lots of expenditure and the transfer of production lines in Europe, and developing countries face the problem of reduced asset. Further, it will be more difficult for developing countries to attract the transfer of semiconductor industry in the future, affecting their industrialization process.

The competition also leads to information asymmetry and opacity in the global trading system. Professors Ju Jiandong and Hou Jianghuai pointed out in their article *Five Stages of China-US Competition* that the United States will certainly use its trade advantages to try to hinder China's catch-up trend, and China will assuredly encounter the bottleneck of catch-up [8]. Developing countries' interests in global trade are the shareholders most affected by the process of establishing a new framework for great power competition. The competition between China and the United States in the field of science and technology leads to the asymmetry of information and the limitation of technology transfer. It is more difficult for developing countries to obtain advanced technology and intellectual property rights, and it is also difficult to obtain access to trade information, which will alter their industrial upgrading and economic growth. Meanwhile, developing countries are passive in technology acquisition and market access. Developing countries that are highly dependent on specific markets or links in the supply chain will be swung significantly by the restructuring process.

2.3. The binding force of the equal discourse system is difficult to practice

The equal discourse system is one of the principles of the WTO, which aims to safeguard the ability of developing countries to have balanced rules and commensurate definitive consensus in global trade and commerce. However, in recent years, the debate between developing and developed countries on trade restrictions has been protracted. For example, In Professor He Weidong's article *Defending WTO rules in the face of Threats to WTO Reform*, the case is that China sets barriers that the acquisition of agricultural crops from the United States must be in accordance with market rules and collective demands, and the United States designates that the price of foreign steel production must be less than 25% of the similar type of products in America before it can arrive the government procurement [9]. While the tariffs imposed by other countries on U.S. agricultural imports count as trade restrictions in WTO. The US agricultural subsidy per capita is seventy times that of China, which is considered as fair competition by developed countries' discourse structure, while China's advantageous interest rate loans to enterprises are considered as distortions to the market. In the context of such unequal standards, it is difficult for developing countries to make breakthroughs in the WTO reform formulated under the single discourse system of developed members, and the main factor behind this is that the binding force of the equal discourse system is problematic to be put into practice.

At the regular session of the WTO Dispute Settlement Body in 2023, the United States vetoed a concerted proposal inspired by 127 WTO members to prevent the WTO from restarting the appellate body and the justice selection process. This is the 63rd time since 2020 that the proposal has been rejected. The Appellate Body, as one of the most important trade dispute adjudication mechanisms of the WTO, is composed of seven justices. Since the Trump administration taking actions in 2019, the United States has cast consecutive veto votes to prevent the appellate body from starting the normal selection process for justices. Until November 30, 2020, when the last justice stepped down, the WTO Appellate Body was in a long-term state of suspension.

The absence of a restarting of the Appellate department reflects the fact that developing countries have limited access to the equal discourse in the international trading organization. The US veto of this resolution reflects the trampling of the global trading system by developed countries. Although the Inflation Reduction Act of the United States reorganized the industrial chain of Europe to the United States, which is a relatively obvious violation of free trade principles and WTO rules, the United States can better maintain its discourse system advantage over developing countries in the field of trade arbitration by constantly rejecting the nomination of the appellate body. This motivation weakens the binding force of the equivalent discourse system and puts developing countries at a disadvantage in free trade.

3. Possible ways for developing countries to maintain an open trading system

The conceivable alternative methods for developing countries to defend free trade are bilateral free trade agreements (FTAs) and the formulation of regional pilot free trade zones. Based on the empirical data of representative developing countries [10], regional trade agreements can give full play to their preferences of flexibility and coordination and make up for the deficiencies and weakness of the international trading system represented by the multilateral trading structure with the WTO as the main representative.

In the new round of WTO reform agenda, the legitimacy and legitimacy of the self-identification of developing countries using special and differential treatment clauses to confirm the status of developing members are facing questions and challenges. Professor Wu Yichun and Jiang Zuoli also discussed the intentions and plans taken by developing countries to establish free trade zones and maintain the legitimacy of their subsidies [11]. Due to the conflict between the government subsidies obtained by enterprises in the free trade zone and the WTO rules, the preferential period provided by the WTO for developing countries expires, and many developing countries have begun to adjust their free trade zones in accordance with the relevant rules of the WTO in a severe situation, in order to achieve the purpose of promoting exports and effectively avoiding WTO members' accusations, such as adopting laws which eliminates export subsidies, establish the integrated role of free trade zones, allowing imports of products from the zone into the host country's market, and encouraging private establishment and management of free trade zones.

To sum up, developing countries can attract investment and increase exports by developing free trade zones within international trade rules and providing export subsidies to enterprises in the zones. In the face of the challenge of anti-globalization of international trade, developing countries should rely more on bilateral and regional free trade agreement approaches, and the discrepancies between developing and developed countries in capacity should also be widely applied under the rules and serve as a major impetus to promote the reform of the World Trade Organization.

4. Conclusion

The purpose of this paper is to analyze the multiple challenges faced by developing countries in maintaining an open international trading system, as well as specific cases. Mexico's disadvantageous position in the WTO and the USMCA Agreement, the impact of intense supply chain competition between China and the United States on other developing countries, and the United States' obstruction of the WTO's proposal to reopen the Appellate Body; by summarizing the difficulties of developing countries in fighting for an equal and open trading system in the international arena, it can be concluded that the gap in comprehensive national strength, competition among major powers and unequal rules in the international trading system together constitute the biggest obstacles for developing countries to obtain open trade as an international public good. Comprehensive national strength constitutes the primary threshold for international market access, competition among major

powers has an impact on the direction of international trade, and the equal discourse system is the standard for constituting an open trading system in globalization. If the above three factors face challenges, developing countries will find it severe and strenuous to obtain international trade and will be treated unfairly in the process of increasing and progress.

At the same time, the last part of this paper also demonstrates that developing countries need to adopt practical strategies to improve their negotiating power and market access. On the one hand, by strengthening the construction of regional free trade agreements (FTAs) and pilot free trade zones, developing countries can enhance their own trade competitiveness and the right in the international trading structure, and reduce their dependence on a single power to a certain extent. On the other hand, developing countries should continue to promote the reform of the WTO [12], ensure the effective implementation of the principle of the equivalent discourse system, and safeguard the expansion interests of developing countries and the universality of the international public good—open trade.

Maintaining an open trading system is not only the responsibility of developing countries, but also the common goal of all countries in the world under the tide of globalization. Although in this process, it is strenuous for developing countries to maintain an open international trading system because of the three factors discussed in this paper, it is still worth exploring the reform of world trade and the methods of developing countries. Meanwhile, we should also recognize that only with the joint efforts of the international community can the current difficulties and challenges of the international trading system be improved.

References

- [1] Kaul, Inge, et al. *Global Public Goods: International Cooperation in the 21st Century*. Published for the United Nations Development Project [by] Oxford University Press, 1999.
- [2] Stiglitz, Joseph E., “Knowledge as a Global Public Good”, in Inge Kaul, Isabelle Grunberg, and Marc Stern (eds), *Global Public Goods: International Cooperation in the 21st Century* (New York, 1999; online edn, Oxford Academic, 1 Nov. 2003), <https://doi.org/10.1093/0195130529.003.0015>.
- [3] Birdsall, Nancy, and Robert Z. Lawrence, “Deep Integration and Trade Agreements: Good for Developing Countries?”, in Inge Kaul, Isabelle Grunberg, and Marc Stern (eds), *Global Public Goods: International Cooperation in the 21st Century* (New York, 1999; online edn, Oxford Academic, 1 Nov. 2003), <https://doi.org/10.1093/0195130529.003.0008>.
- [4] Kong Yishu. *Analysis of Mexico’s trade countermeasures against the United States and their impact on the United States*. *China Economic and Trade Guide*.24(2018):56-58.
- [5] Bao Jianyun. *Comprehensive Opening Up Strategy: Reasons, Challenges and opportunities*. Governance, 2018.
- [6] Tijmes-Ihl, Jaime, and Yvonne Georgina Tovar Silva. “The USMCA Sunset Clause.” *Revista de Direito Internacional*, vol. 18, no. 3, 2022, <https://doi.org/10.5102/rdi.v18i3.7878>.
- [7] Samuel Hardwick, Jason Tabarias. *The US Chip Act Hurts Its Asian Partner*. *East Asia Forum*, 2023.
- [8] Ju Jiandong, Hou Jianghui. *Five Stages of China-US Competition*. Center for International Finance and Economics research, TSINGHUA PBCSF, 2024.
- [9] He Weidong, *Defending WTO rules in the face of Threats to WTO Reform*, Chongyang Institute for Financial Studies, Renmin University of China, 2019.
- [10] Li M. *Comprehensive effect analysis of Free Trade zone strategy*. Shandong University, 2015.
- [11] Wu Yichen, Jiang Zuoli. *Analysis of the experience of developing countries adjusting their free Trade area laws according to WTO law*. *Dongyue review* 35.10 (2014) : 164-168.
- [12] Kaul, Inge. *Global Public Goods: A concept for framing the Post-2015 Agenda?* Published for the German Development Institute, 2013.