Transnational Commercial Law

by Author

Course Name

Tutor Name

University Name

20th February 2019

Transnational Commercial Law

**Introduction**

Undoubtedly, globalisation changed the functioning of the world in the world in an exceptional manner. Nations become more associated with each other in different forms and considerations. It is worthy to mention that the prospect of the globalisation also immensely transform the pattern of business for many countries. It provides an excellent level of chances to expand the business at the global level. It is observed that many nations effectively attained benefit from the changing structure of the business. Gigantic multinational organisations are clear examples of significant outcomes of the phenomenon of globalisation. It is vital to explore how international trade alters the overall perspective of the business concerning the case of developed and developing countries. The prominent role of a different international organisation can also never be ignored when it comes to the idea of growing business at the international level (Rena, 2012). These particular organisations are formed at the international level to comprehensively achieve the targets of globalisation and ensure corporate benefits for all the member countries without the distinction of developed or less developed country. The consideration of the global business can be recognised as completed without the approach of the World Trade Organization (WTO). WTO is one noticeable international entity that is developed with the focus to enhance the business options for the developing countries. It is interesting to apprehend the central idea of how effectively this specific organisation play its role to meet the actual objectives relevant to its operations. Here the main focus is to critically analyse the actual impact of WTO on the business of developing countries and propose some viable solutions to ensure the appropriate trading system for all the member countries.

**Description**

WTO is a renowned international organisation which is responsible for connecting different countries of the world concerning the approach of business. It refers to the prominent entity to eliminate the gaps between countries and ensure an active form of free trade for all its member countries. The actual concentration of WTO reveals as to increase business opportunities for the countries who are ranked as less-developed nations. The prime objective of this form of prospect is to guarantee the proper intervention of all the growing economy into the international approach of international business. It comes up with the theme that it is essential for the nations to avail benefits from each other’s potential in the form of growing business and utilise this chance for the betterment of their citizens. Proper assessment of the actual reality of the international trade system is essential to make inferences about the actual performance of the WTO. It is vital to establish the prevailing connection between the ground reality and the objective set by the WTO for its member nations. Many critics argue that WTO never successfully achieve the target of enhancement of the business paradigms for all the countries without any form of discrimination. The impact of the rules set by the WTO at the international level challenged by many researchers and referred as the hinder for the growth of business for the developing countries. It is critical to explore the actual role of the WTO in international business and how they influence the corporate prospects of the developing countries. This form of evaluation further helps to propose vital solutions to enhance the performance level of the global organisation of WTO.

***Role of WTO***

It is one fact that many countries are not able yet to successfully integrate into the global economy and attain actual benefits from the overall paradigm of different trade reform programs. Many various factors are the main reason for this form of concern. It is observed that free trade is still a dream for many nations that make it difficult for them to enhance their corporate position at the international business level. Various forms of trade barriers are the actual reality for many developing countries. It is also significant to mention that the opportunity of investment is immensely high for many countries that make it complicated for them to take part in the global business bracket effectively. The phenomenon of anti-bias export can also be never ignored that actively restrict business options for many developing economies. It is essential to indicate that detrimental internal factors of the developing countries also limit their international business prospect (Rena, 2012). These features are also a significant concern for the nations to never actively involve the entire collaborative trade system at a worldwide level. Different sort of regional conflicts or involvement of the countries in the wear are the significant reasons that negatively influence the approach of the global business system for these nations.

There are different international institutions such as WTO to establish a general agreement between the member countries to attain the option of free trade policy reforms. This particular paradigm come up with the focus to create the business environment for the valuable supply-side responses. The main objectives of this form of consideration are to increase the level of economic growth for developing countries and increase the means to generate more employment. Trade policy reform can only establish a successful paradigm if it actively implanted and supported by comprehensive institutional setting. This specific institutional domain can be referred as the prominent platform of WTO. Aligned combination of different reforms is the need of time to effectively articulate and implement the idea of an integrated global trading system for all the nations. An effective combination of complementary policies is required to enhance the domain of business environment.

The role of WTO can only critically measure by thoroughly understand its prospect of functioning. It is important to explore how the WTO works to facilitate its member countries concerning the objective of gaining maximum benefits from the global trading system. It is significant to examine how WTO provide necessary assistance to the developing nations to strategise their economic prospects for the attainment of better international trade outcomes. WTO is recognised as the replacement of the organisation of the General Agreement on Trade and Tariffs (GATT). It is crucial to explore how effectively WTO meet its objective that differs from the previous global trading entity. The primary objective of the formation of the WTO is to ensure the provision of equal trade environment for all its member countries. The focal point of concern is to establish the particular environment that provides an effective consideration of free trade of goods and services and maintain the better form of the flow of trade between different nations. It is also one core agenda of the WTO to consider necessary measures to overcome the prevalence of different structural imbalances.

For two decades, the WTO is playing its influential role to provide a useful platform to the member nations to achieve the target of stable globe business system. It is established as the institution to assure better negotiation level between the countries that ultimately encourage them to facilitate each other in the integrate trade process. It is worthy to mention that there is consideration of a comprehensive conflict settlement method developed by the organisation to build consensus between different nations and motivate them towards the fruitful domain of global business. In other words, WTO can claim as the bridge between different countries to successfully articulate the idea of a trading system and adopt strategies to enhance the prospect of business. A thorough consideration of the concept of multilateral politics is also a prominent feature of concern for the WTO concerning the primary objective of the stability of the business environment at the global level. Many countries are the active members of the international organisation of WTO. It is significant to explore that all nations are connected for the single objective of increasing their business chances at a global level. The personal interest of countries ultimately become the reason of many forms of conflict. The growing concern of the potential conflicts between nations ultimately influences the performance of the WTO as the representative global trade organisation. The growing interests of different member countries explicitly highlight the issue of insignificant and imbalance role of WTO (Rena, 2012). It referred to as the ineffective trade system approach proposed by the authority of WTO. The reality of the international business helps to determine the effectiveness of the business policies and structures set by WTO for its all member countries. It is observed that many developing countries are immensely facing the challenge of trade restriction and inadequate chances of trade enhancement contrary to the claim establish by the WTO.

***Basic Functions of WTO***

The effectiveness of the WTO can better measure by critically analysing its functions and main principles. This form of understanding helps to identify the gap between the objectives set by the organisation and the actual position on the ground. The fundamental function of the WTO is to provide a platform to all the member nations to meet the objective of global cooperation related to the perspectives of different trade policies. The institution of WTO is responsible for providing the systematic and comprehensive code of conduct about business operations to all its member nations. Various policies and trade structures are instructed by the entity of WTO to maintain the better exchange of trade between countries at the global level. In other words, the forum of WTO referred as the global market that offers all the countries to come together and communicate with each other for the core agenda of business enhancement in the form of the global trading system (Hoekman et al., 2002). The outcome of the market exchange can reveal in the form of proper development of the code of conduct for the worldwide business. The institution of WTO is also responsible for setting particular legal obligations for all its member nations concerning the feature of trade policies. These legal domains are established in the form of different trade agreement that helps the international business organisation to legalise their business operations.

***Basic Principles of WTO***

Critical understanding of the basic principles set by the WTO is essential to determine its effectiveness in the entire structure of the trading system. An inclusive framework is constructed by the WTO relevant to the primary approach of trade policies. It is essential to indicate that its specific framework can never refer to the criteria to establish outcomes. It only concerned about the domain to set the basic rules and regulations for all the stakeholders without developing the idea of final results. There are five fixed principles under the paradigm of WTO recognised as nondiscrimination, reciprocity, enforceable commitments, transparency, and the aspects of safety. Critical consideration of these principles can be assistive to make proper inferences about the actual performance of the authority of WTO most importantly in the case of developing nations.

***Nondiscrimination***

The main idea of nondiscrimination comprised of the facets of most-favoured-nation (MFN) rule, and the feature of the national treatment principle. Both these factors are adaptable for the domains of goods, services, and intellectual property. The basic idea associated with this particular approach is that foreign products can never be categorised as the less favourable items in the comparison of domestic products. This certain phenomenon is established under the perspective of the national treatment principle.

***Reciprocity***

Reciprocity is another important principle set by the WTO for all the member countries. It is established as the one essential feature to establish the promising form of negotiating the process to enhance the business paradigm. The approach of better trading exchange is proposed by WTO to limit the growing scope of the unlimited authority of any strong nation under the paradigm of MFN. It also actively linked to maintaining the better form of structure to ensure the payments for the idea of trade liberalisation that ultimately provide for the countries to enhance their access to the foreign markets.

***Enforceable Commitments***

It is another major principle attributed by the entity of WTO. The main aim of this international organisation is to regulate all the business activities embedded at a global level and ensure a free trading mechanism for all the member countries. The criteria of liberalisation commitments are enforced by the organisation to set certain rational trade rules for all the countries. It is interesting to indicate that the principle of nondiscrimination recognised as the foundation for the proper development and implementation of the different commitments and agreements (Hoekman et al., 2002). The approach of tariff commitments in the form of legitimate prospects established by the authority of WTO for all the member nations.

***Transparency***

 It is one critical and most important facet of concern for the organisation to ensure the effective establishment of all the legal domains and agreements between different member countries. The principle of commitment can only meet if the responsible entity has proper access to the necessary information. All the arrangements under the umbrella of WTO are administered by the authority to avoid any form of discrimination or legal complications. The principle of transparency recognised as the basic element which is used by the WTO to attain the better form of legal obligations. It is illustrated under the domain of Article X of the GATT and Article III of the prospect of GATS. The authority of WTO makes it mandatory for all its member nations to publish their trade agreements to determine the specific administrative decisions set for the trade. ***Safety Controllers***

 The paradigm of safety controllers referred to as the final basic principle set by the WTO for its member nations. This particular legal approach gives some form of authority to the government when it comes to the enforcement of some restrictions on trade. This specific paradigm also connects with the consideration of trade measures to achieve noneconomic objectives. Fair competition is another facet of concern relevant to the main idea of safety valves. This certain principle also permits to attain the feature of proper involvement in the trade to achieve various economic objectives.

***Transnational Commercial Law***

This certain legal form is another comprehensive source of knowledge to better figure out the idea of trading system prevails at the global level. The concept of transnational commercial law identified as the combination of different rules that provide necessary directions to the practices of international commercial transactions. In other words, it can be considered as the described legal system for the business corporations about the legitimate concerns in the global business. It is evident that when one organisation is interested in initiating business paradigms with the other countries that there will be a need for proper legal agreement (Zumbansen, 2002). These legal considerations or rules helps to adopt the better prospect of the business between different business parties. The direction of various conventions and model laws are used to enforce legal forms in the global trading system better. The approach of law related to the phenomenon of transnational trading provides knowledge about the general rules and regulations set for the organisations.

WTO referred to as the authority at the global level which is responsible for ensuring the enforcement of different legal agreements and international business law at the global level. Different rules are developed based on the interest level of all the member nations. It is one prime duty of the entity of WTO to ensure the legal rights for all the countries and enhance the perspective of free trade. The practices of low-cost investment and fewer barriers to entry to the international market are two significant aspects considered by the organisation to achieve the primary objective in its true form.

***Impact of WTO on Developing Countries***

It is utmost crucial to critically analyse the actual position of the developing countries by observing their economic conditions and connectivity to the international business. This form of evaluation helps to determine the actual role of WTO for the betterment of different economies concerning to the integrated global trading system. It is argued that WTO never successfully achieve its target of free trade for every member nation because many developing countries are still facing the problems of high investment rate and large form of different trade barriers in the way of tariffs and taxes.

Critical consideration of the Doha Development Round is one major facet of concern to indicate about the role of WTO in the economic betterment of developing countries. The focal point of this particular agreement and negotiation domain is to provide necessary and timely aid to the developing countries to ensure their role in the international business. The principles of multilateral liberalisation and rulemaking are set by the required aspects by the WTO to achieve the target of growth and long-term development in the developing regions of the world.

Identification of different functions and their implementation helps to determine the actual role of WTO. The primary objective for this entity set as the proper enforcement, management, and operation of all the different legal agreements. It also established as the entity to provide a legitimate platform to all the member countries to sort out their business conflicts at the international level. Proper surveillance of the global economic policy is also the primary objective of WTO appears in the form of fundamental function. Different forms of comprehensive economic reforms are offered by the WTO to effectively align the economy of developing countries into the global trading system. Fundamental reform program is the example of the policy formation to provide support to the governments of developing countries. It is noteworthy to describe that agricultural markets referred to as the target market to focus on the economic growth of the countries who are ranked as developing nations. Food security and rural development are the primary goals set by the WTO for the developing areas of the world. These two elements are features of concerns under the approach of non-trade concerns. The reality of the global economy indicates that although WTO plays a vital role in the economic enhancement of the developing countries all the benefits are not transmitted to all the region in reality. There are some developing regions which are still facing major trading concerns and challenges. Distribution of the resources for all the developing zones requires more attention. It is need of the time to understand that there are some specific economic issues faced by developing economies. Developing countries have their regional challenges as well which hinder their way to actively involves in the process of global trading. Lack of resources or the issue of the economy of scale is prominent examples of the economic challenges faced by the developing nations. It is immensely crucial for the WTO to consider the specific problems of all the different developing regions separately and offer better and targeted intervention plan to provide economic assistance. The reality of the developing nations indicates that WTO potentially failed to build a consensus about the subsidiary agreements at different levels. The role of WTO is also not impressive when it comes to effectively deliver different trade rules and policies for the member nations. There are confusing rules for the developing regions that make it difficult to involve in economic process at the global level.

The rules set by the WTO for the developing countries become the source of conflict in different forms. It is critical to address these specific features of concerns and took necessary measures in the kind of articulation of beneficial policies. The unsuccessful establishment of the economic policies in the developing countries turns as the crisis for the authority of WTO. Reconsidering the approach of agriculture negotiations is essential. It is one complex task for the organisation to manage because different nations have different objectives and specific concerns. Diversity in the form of the economic aim of various developing countries minimises the positive impact of WTO for the developing region of the world.

**Conclusion**

To conclude the critical discussion about the actual role of WTO for the developing countries, it is worthy to indicate that the entity of WTO is one important domain concerning to the idea of international business and adoption of the integrated global trading system. The role of WTO can never be ignored relating to the particular principles and rules set by the organisations for the sake of regulating business at the global level. It is vital to explore how effectively the authority of WTO achieve its primary objective of a free trading system for all the countries without referring to any legal restrictions. There is a need for further valuable and practical measures to ensure the accomplishment of the actual goal of the global trading system. It is essential for the WTO to reconsider its strategies for the different developing regions and set the rules according to their certain developmental needs.

***Recommendations***

* It is suggested for WTO to establish new policy dialogue to apprehend the actual existing problems for the developing countries. Consideration of new planning domain helps to determine the real influence of policies and rules on the developing economies.
* Dialogue is a crucial facet of concern referring to the conditions of the developing nations. It is important for the authorities to openly communicate with the governments of the developing countries to figure out their actual problems and develop a road map for the future.
* Assessment of the institutional performance of the organisation is mandatory to identify the loopholes and design potential strategy to meet the standard of legal and economic protection for all the member countries.
* Special and differential treatment (SDT) agreements set by the WTO for the developing countries can be problematic for some of the concerned regions. It can be one challenging prospect for the developing nations to re-examine the phenomenon of SDT and implement it in its true form. Referring to this concern, it is suggested to identify the approach of prioritising critically.
* Mainstreaming of the agriculture concerns is necessary to involve emerging economies into the trade and development process set at the global level.

**Bibliography**

Hoekman, B.M., English, P., Mattoo, A., 2002. Development, trade, and the WTO: a handbook. The World Bank.

Rena, R., 2012. Impact of WTO policies on developing countries: issues and perspectives. Transnatl. Corp. Rev. 4, 77–88.

Zumbansen, P., 2002. Piercing the legal veil: commercial arbitration and transnational law. Eur. Law J. 8, 400–432.