

## **HAS THE WTO DONE ENOUGH DURING THE PANDEMIC?**

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### **ABSTRACT**

The functioning of the World Trade Organization has been marred by controversies. The failure of Doha round of negotiations, the widening chasm between developed and developing nations, controversy regarding agricultural subsidies and US aggression on WTO's operational canvas has been widely reported. There has been a mixed opinion about the contribution of WTO as a multilateral body to address the trade issues that resulted from the Covid-19 pandemic. This is a conceptual study that reviews the available body of literature to understand the specific actions by WTO during the pandemic and whether these were adequate to address the concerns about export barriers by member nations that adversely affected global trade. The findings reveal that WTO's contribution has to be acknowledged in terms of its contribution to increase in world trade; however a lot needs to be done in terms of improving credibility in resolving trade conflicts across the globe. WTO leadership needs to take actions to bridge the gap between member nations and chalk out the road map for building a sustainable world trade mechanism that can facilitate achievement of the sustainable development goals that have been envisioned.

**Key words:** WTO, Pandemic, Covid-19, Multilateral, Trade Negotiations, Global Trade

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### **Introduction**

The WTO was established in 1995. It replaced the General Agreement on Tariffs and Trade (GATT), which was established in 1948. GATT was established after the failure of International Trade Organization (ITO). The work of WTO has always been challenging and controversial due to differences between member nations in matters concerning international trade. Trade restrictions by Governments have affected \$ 747 billion in global imports and the dispute settlement system was severely affected (in late 2019) due to disagreement between member nations on intended reforms.



The World Trade Organization (WTO) deals with rules of trade between nations. As a global international organization, WTO monitors and administers agreements that are negotiated by trading nations across the globe and those that are ratified in their parliaments. WTO works to ensure that trade flows smoothly and all nations benefit due to a free trade regime. WTO also settles trade disputes between member nations and supports the needs of developing countries and those nations that are marginalized. Major decisions are made by member governments – either by ministers (who meet every two years) or by their ambassadors or delegates (they meet regularly in Geneva). The primary purpose of WTO is to open trade for benefit of all nations.

The Uruguay Round of negotiations – the eighth and last round under GATT – was held from 1986 to 1994 and resulted in multilateral agreement on trade in goods and trade in services. The negotiation was successful in setting standards and mechanisms for protecting intellectual property rights, dispute settlement, and reviews of governments’ trade policies.

Developing countries felt short changed by Uruguay Round. They had agreed for significant concessions, opened their borders for trade flows that helped developed countries and initiated reforms in their trade policy. But these efforts did not help in reducing their hurdles to trade flows. Developing nations also had agreed to greater tariff cuts relative to those proposed by developed nations.

Trade protectionist measures of developed countries coupled with high subsidies and tariffs on agricultural products and the abuse of anti-dumping measures has led to widening gap in trade relations between developed and developing nations. On the other hand, dilution of environmental and safety standards in developing countries led to unfair competition between developing and developed countries in manufacturing operations and effectiveness.



The adverse experience that emanated from the Uruguay round led to failure of the Doha round of negotiations. The Doha round of negotiations began in 2001 but ended up as a failure due to massive differences between developing and developed nations on industrial tariffs, non-tariff barriers to trade, and agricultural subsidies. Some of these are still being discussed. Disagreements regarding agricultural subsidies between developed and developing countries and among developed countries themselves proved to be the nemesis for the Doha round.

This research effort traces various functional aspects of WTO to review its responses to the pandemic and identify the challenges to which WTO was exposed. The important question that we attempt to address is – Has WTO done enough for the world during the Covid-19 pandemic?

### **WTO and the US**

It is important to understand the consequences of recalcitrant attitude of the US administration that had a deleterious impact on the functioning of WTO.

The role of US in WTO had become somewhat dubious in the last four years under the Trump administration. It is hoped that Biden administration would revitalise WTO as US has been the main architect of the system.



The US has been aggressive towards the WTO in the last few years (under former President Donald Trump). The confrontation between US and China regarding trade and investment affected global trade. US also made an attempt to dismantle WTO's appellate body and threatened to withdraw from WTO.

The Appellate body of WTO manages resolution of disputes between member nations. When the US blocked the appointment of members after the terms of old members ended, in 2019, the membership of Appellate body was reduced to three from seven. In December 2019, matters turned inimical as the tenure of two of the members came to an end and the US continued to block the appointment of a new member. The functioning of the Appellate body came to a standstill. Concomitantly, the US administration downplayed the importance of globalization and focused on strengthening domestic economy (bordering on xenophobia/

jingoism) resulting in trade becoming a zero-sum game. US always had an axe to grind with WTO since the time China joined WTO in December 2001.



**Source:** [www.thebalance.com/u-s-china-trade-deficit-causes-effects-and-solutions-3306277](http://www.thebalance.com/u-s-china-trade-deficit-causes-effects-and-solutions-3306277)

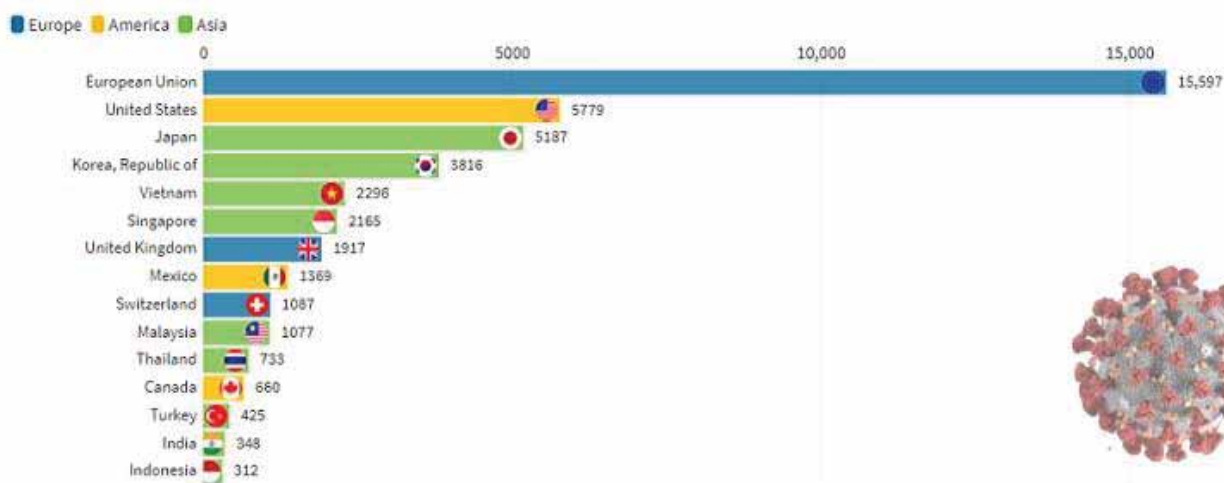
US contended that China’s predatory approach resulted in loss of jobs in US and losses for industries. US alleged that China took unfair advantage of its membership in the WTO. When China joined the WTO, the US made huge concessions expecting China to adhere to global trade standards. China defied the US dictate and took its own decisions. WTO, according to US, failed to keep China in check. In 2017, Japan attempted a joint bid with US and EU to set new global rules on state subsidies and forced technology transfers. China and Singapore were a few nations that used their status as developing nation to circumvent implementation of WTO agreements. WTO’s principles stand in contrast to “America First”. The US has been known to throw its weight in global trade whenever it conducts trade negotiations – bilateral or multilateral.

### Impact of the Covid-19 pandemic on global trade



### Trade impact of the Coronavirus (COVID-19) Epidemic (USD Millions)

Top 15 most affected economies



Source: UNCTAD estimates - Estimates are based on a drop of Chinese supply in February 2020 as measured by the Chinese PMI. The list does not include Taiwan Province of China and Hong Kong, SAR of China.

The Covid-19 pandemic dealt a deadly blow to global trade by disrupting supply chains, impeding mobility and generating greater demand for essential products. Once the pandemic hit the globe, countries restricted the exports of medicines, pharmaceutical products, diagnostics, therapeutics, and food products. By 23 April 2020, 80 countries and separate customs territories had introduced export restrictions with more countries expected to follow suit. These restrictions were on personal protective gear, pharmaceuticals, foodstuff, medical devices and Covid-19 test kits. Even though GATT rules allow temporary export restrictions (due to an exigent situation), these measures (also called as “beggar-thy-neighbour” policies that lead to adverse economic impact in neighbouring nations/ trade partners) resulted in shortage of food and drugs in countries that were relying on imports of these items.

Countries closed their borders and there were trade restrictions on imports and exports. The least developed countries (LDCs) are facing enormous challenges even as WTO measures are proving to be far from effective.

#### Actions by WTO

The World Trade Organization has forecast that the corona virus pandemic would reduce world trade by a third. The pandemic-induced recession is expected to be much more severe than other trade crises triggered by collapse of financial institutions and markets. Countries need to fight the pandemic together and align their monetary and fiscal policies such that normalcy is achieved in world trade over a period of time. Protectionism by individual nations can turn out to be counterproductive. In 2020, trade tensions between USA and China led to a 0.1% decline in global trade.

In April 2020, WTO expressed its concern about regulations imposed by nations in wake of the pandemic as these could disrupt supply chains. This laid the foundation for greater transparency among nations about the measures taken.



In a General Council meeting on 15 May 2020, WTO members met virtually and discussed their responses to Covid-19 as well as strategic actions to deal with the adverse economic impact precipitated by the crisis.

On 20 May 2020, WTO dispute processes on tariffs imposed by China on Australian barley were questioned. Seeking redressal through WTO is perceived to be a time consuming process. A notification system indicating supply shortages faced by nations was launched. These notifications can be discussed in Council for Trade in Goods or at the General Council of WTO.

WTO acts as a focal point and reduces transaction costs of policy co-ordination. It has ensured transparency with regard to pandemic-related measures and has provided a platform for 164 countries to coordinate their trade policies. WTO has been coordinating policies concerning intellectual property rights (IPRs) to ensure better access to vaccines. India and South Africa have submitted a proposal demanding waiver of IPRs on vaccine manufacture (copyright, patents, industry designs and undisclosed information) under the TRIPS (Trade related intellectual property rights) agreement.

**India & South Africa Propose Waiver Of Global IPR Laws To Contain COVID-19**  
*India & South Africa submit proposal on waiver of TRIPS agreement norms to WTO*

**INDIA & SOUTH AFRICA**

- Proposal is related to waiver of Sections 1, 4, 5, & 7 of Part II of the TRIPS Agreement
- Proposal aimed at promoting rapid & affordable global vaccination drive against COVID-19
- Waiver of TRIPS provisions sought for all WTO members for a limited period
- TRIPS Council Meeting scheduled on Oct 15-16 at WTO
- **Alert:** TRIPS is Trade-Related Aspects of Intellectual Property Rights

**CNBC TV18**

Member nations of WTO have to notify quantitative restriction [QR] like export restrictions but due to the extraordinary situation triggered by the pandemic, a large number of countries did not notify their QR measures. This led to WTO compiling a list of Covid-19 related measures for goods, services and IPRs and these were uploaded on its website. The scheme to support small and medium sized enterprises in Italy was highlighted. The Pradhan Mantri Garib Kalyan Yojana in India and a moratorium on default interest on late payments of custom duties in Switzerland also merited a mention by WTO.



The Trade Policy Review (TPR) Mechanism of the WTO allows members to collectively monitor the policy responses of countries. India had its review on 6<sup>th</sup> and 8<sup>th</sup> January 2021. The review also discussed India's Atmanirbhar Bharat. The main goal of this review is to ensure that pandemic is not used as a ploy to implement measures to restrict free trade.

WTO has reported that exports from North America and Asia were affected the most. Travel restrictions and lockdowns have also impacted services on a global level. After the second phase of the pandemic, recovery could take longer. Complex value chains like those for electronics and automotive products have been disrupted. Manufacturing activity has seen a lull for quite some time. Restrictions on mobility (which was anyway necessary) have only aggravated the losses for businesses.

WTO has also introduced the innovative ePing system that allows quick alerts to public and private sector to new product requirements. Similar alerts for medical goods and shortages could help nations. 54 countries imposed export restrictions on medical goods. However, only Australia, Brunei, Canada, Chile, Myanmar, New Zealand and Singapore reiterated the importance of refraining from imposing export controls on essential goods. Regional trading blocs can be used to gauge progress of trading in the future. However, businesses will demand flexibility to trade where they please.

### **Actions of WTO during the pandemic (Vaccine Equity)**

Scientists were able to develop vaccines only through cross-border collaboration. Problems of vaccine scarcity and equitable access will need co-operation at a global level. Ngozi Okonjo-Iweala, Director General, WTO said that the Covid 19 pandemic is a problem of the global commons and that it can only be solved through co-operation, coordination and collaboration. Vaccine production has to be increased and access to vaccine has to be expanded.

WTO had 3 goals:

1. Highlight trade related obstacles, increase production and ensure equitable distribution and administration of vaccines

2. Work towards increase and scale up manufacturing with provisions of sharing technology and know-how and ensuring capital for ramping up manufacturing capacity.
3. Explore options like TRIPS waiver and propose incentives for R&D so that all countries across the globe benefit due to advances in medical technologies in line with the new philosophy – When it is a question of Covid-19, no one is safe until everyone is safe.

Despite progressive steps being taken by many nations, a lot needs to be done. With the risk of new mutants and variants increasing with every passing day, attempts need to be made to arrest fatalities that could have been avoided. The economic impact of delays in vaccine delivery and administration can be severe and the same has been quantified by WTO, World Bank and IMF. There is a pressing need to increase vaccine production capacity in developing and least developed countries. Vaccine distribution must not only be efficient but it must also be equity-based. This needs strengthening of supply chain networks. Innovation is an absolute to deal with Covid-19 variants.



Transparency in vaccine contracts is essential for appropriate pricing and distribution. Some vaccine manufacturers are also pressing for indemnity clauses. WTO has a crucial role to play in assisting recovery measures to handle this crisis that has assumed gargantuan proportions.

Ramping up vaccine manufacturing capacity needs long term investment and sustainable business models. Supply lines for ingredients and equipment need opening up. Vaccine manufacture relies on cross-border collaboration and deployment of skilled labor as much as it relies on financial capital. Transfer of technology will remain the important conduit to address issues of information and knowledge asymmetry.

Serial No.	Actions by	Actions needed
1	WTO members	Reduce export restrictions and supply chain barriers; facilitation of logistics and customs procedures.  Negotiations in TRIPS Council for waiver proposal
2	Vaccine manufacturers	Scale up production, making



investments, focusing on productivity gains, increased sharing of technical know-how, transparency in contractual agreements and product pricing.

3	International organisations and financial institutions	Funding of existing and new capacity, support capacity building for regulatory issues for vaccines, therapeutics and diagnostics.
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Effective regulatory governance and stringent compliance cannot be compromised. These factors will play a role in decisions to manufacture vaccines. WTO agrees that working together is the only way ahead. Political will and engagement of private sector will act as cementing factors for vaccine production.

### **Managing trade multilateralism after Covid-19**

Ambassadors, trade negotiators and experts have urged for reforms in multilateral trade cooperation so that economic recovery from the pandemic can be quick. Global trade tensions apart, there has been an inordinate delay in appointing members of the WTO Appellate Body. Ironically the Covid-19 crisis followed the systemic challenges that had engulfed the multilateral trading system. Recovery from the pandemic and working to meet UN Sustainable Development Goals remain high priorities.

The massive unemployment caused by the pandemic and drastic reduction in income has adversely affected sustainable development goals like SDG1 (poverty alleviation), SDG2 (food security) and SDG3 (good health).

The Director-General (Ngozi Okonjo-Iweala) should work towards bridging the differences between main players and rebuild trust among all member nations. All member nations must be served equally and poorest nations need special attention of the Director General.



The Director-General of WTO has played a traditional broker role – but there is a need to demonstrate skills to help reach agreements on controversial matters. In the past, negotiations at WTO have dragged on for years. The adverse environment across the globe that has been exacerbated by the pandemic needs a supportive WTO secretariat and effective co-ordination with Geneva ambassadors. This is how an amicable solution can be worked out to move forward.

Let us understand the priorities:

Sr. No	Priority No	Description
1	PRIORITY 1: PROMOTE THE POSITIVE ROLE OF TRADE IN FIGHTING COVID-19 AND ENSURING RESILIENCE IN FUTURE HEALTH CRISES	Global value chains have made access to medical equipment possible. Countries have supported one another with supply of vaccines and oxygen cylinders. A high level dialog between nations and important stakeholders is a must. WTO members have not been transparent on pandemic-related measures. WTO needs to spring into action to reduce information asymmetry between trading nations. Working groups of WHO and WB could initiate efforts to promote greater transparency on availability of critical medical supplies.
2	PRIORITY 2: FOSTER A COVID-19-RELATED AGREEMENT ON MEDICAL SUPPLIES AND VACCINES	Director General should promote multilateral efforts to liberalize imports, limit export restrictions and facilitate the movement of critical medical supplies and medicines. Vaccine nationalism is a glaring reality and the common man is worst affected on account of this. Equitable distribution of vaccine supplies and aid to the poorest countries in the world are necessary. World Trade Organization, World Health Organization and World Intellectual Property Organization must work together.
3	PRIORITY 3: FACILITATE CREATION OF A LASTING SOLUTION TO THE APPELLATE BODY CRISIS	Trade dispute settlement mechanism has been adversely impacted due to US inaction. The stalemate has resulted in protectionist measures by some countries. It is hoped that the Biden administration would support early resolution of this deadlock.
4	PRIORITY 4: FAST-TRACK NEGOTIATIONS TO REACH AN AGREEMENT ON DIGITAL TRADE	Negotiations are going on an e-commerce pact in more than 80 countries since January 2019. The issues being discussed are complex like data flows, data localization, data privacy, and customs duty and internet taxes. Even if a WTO-wide accord isn't possible, willing nations must initiate dialog to move forward supported by WTO.

5	PRIORITY 5: STIMULATE A WTO DISCUSSION ON IMPROVED DISCIPLINING OF SUBSIDIES	The pre-pandemic era witnessed a situation where some sort of balance was needed between a US style market led capitalism and Chinese style state –led capitalism. Trade impact of fiscal measures of governments to address the challenges posed by the pandemic adds to the complexity. Countries like US, China, Japan and EU are the largest subsidizers. WTO must engage with these countries.
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WTO, according to experts, is not in a position to meet challenges faced by international trade. The organization’s structure needs reconfiguration to make it more agile to pandemic-induced health and economic crises.

Further actions that may be needed are:

1. Depending on capacity of the member nations, the levels of responsibility must be fixed. Developed countries must play a greater role in facilitating global trade.
2. As per the most favored nation (MFN) treatment, a member country has to provide concession, privilege, or immunity offered to one nation in a trade agreement to all member nations. However, bilateral/ regional trading blocs do not follow these norms. As per WTO’s national treatment, foreign companies must not be discriminated against in favor of protecting domestic companies. The TRIMS (trade related investment measures) agreement also favors a similar treatment to foreign investors. Despite such provisions, member nations seldom follow this principle resulting in trade wars.
3. The concept of sovereignty under WTO needs clarity as member nations often use this as a defense.
4. The WTO has to review its policies, facilities, and technical assistance for member nations (developing nations in particular). Trade and specialization leads to efficiency gains. Lack of political will in many countries has impacted the global trade system. WTO needs to promote greater fairness and transparency in global trade. The resolution of grievances between developed and developing countries is another area that needs greater involvement of WTO.

### Conclusion

A crisis like Covid-19 pandemic is a global crisis that needs a global response. The role of international organizations in supporting trade and facilitating cross-border information flows has now come into sharp focus.

The Covid-19 is not the first pandemic and it is not going to be the last. The new normal after the pandemic may be vastly different with shift in consumer behaviour, changes in foreign trade policies, recasting of global supply chains and emergence of digital economy and work from home practices. Unemployment levels have swelled and it remains to be seen how resilient businesses are to emerge from the pandemic.

WTO's actions have largely benefited global trade. It would be wrong to undermine the benefits of WTO by having a myopic approach. Though the world economy has grown, elimination of poverty remains a perennial challenge. However, it would be imprudent not to look at the shortcomings of WTO.

A few diplomats have expressed their view that WTO hasn't done enough to deal with a crisis of such an alarming magnitude that had a devastating impact across the globe. Absence of collective action by member nations was construed as an indicator of the failure of WTO to reign in discriminatory actions by member trades. Lack of leadership and a trust deficit in WTO seemed to have aggravated matters. Even before the pandemic hit the globe, the G20 leaders have called for major reforms in WTO. WTO may be under duress due to the rise of populism, increase in trade wars and the long-delayed negotiation processes steered by WTO. The dispute settlement structure of WTO has often been questioned.

Multilateralism and international co-operation bear a symbiotic relationship. Global cooperation can lead to quantification of results much better than what bilateral agreements can do. Regulations like subsidies are best discussed only at multilateral platforms.

WTO needs a dedicated function for planning policy. USA, China and EU are largest trading countries and so any consensus reached without their involvement cannot be called a consensus. Exemplary leadership ability is now needed to strengthen WTO to help recovery of the world economy. A multilateral trading system needs active co-operation and collaboration of member nations to make the system work. A value system has to be evolved to promote sharing of information among member nation and minimize global disruptions. To reiterate, transparency is no longer an option.

Going forward, WTO leadership has to learn lessons from the past to chalk out the path ahead. Bridging the gap between developed nations and developing nations is a top priority. Amicable solutions must be found for contentious issues. WTO must take all steps to protect least developed countries and marginalized sections of the population across the globe. The main challenge that WTO will face in the future is to create a level playing field among all the member nations. These are trying times for international trade and a lot needs to be done to rebuild global trade after the effect of the pandemic wears off.

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