

WORLD TRADE ORGANIZATION REFORMATION AND TURKEY

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ABSTRACT

WORLD TRADE ORGANIZATION REFORMATION AND TURKEY

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The WTO is very crucial international organization since it is the only international organization dealing with the global rules of trade. The WTO agreements are legal texts covering agriculture, telecommunications, government purchases, textiles and clothing, intellectual property rights, industrial standards and product safety, banking, and much more. Therefore, ‘WTO Reformation and Turkey’ are determined as thesis topic in order to limit the working area for this thesis study, and this topic is tried to understood and explained with realist and liberal theories of International Relations. In order to ensure the integrity of the subject and to comprehend the topic better, three main titles, ‘WTO’, ‘WTO Reformation’ and ‘WTO Reformation and Turkey’, are examined in the thesis.

Keywords: World Trade Organization, WTO, WTO Reformation, WTO Reformation and Turkey.

ÖZ

DÜNYA TİCARET ÖRGÜTÜ REFORMU VE TÜRKİYE

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DTÖ, küresel ticaret kurallarıyla ilgilenen tek uluslararası kuruluş olduğundan çok önemli bir uluslararası örgüttür. DTÖ anlaşmaları tarım, telekomünikasyon, kamu alımları, tekstil ve giyim, fikri mülkiyet hakları, endüstriyel standartlar ve ürün güvenliği, bankacılık ve çok daha fazlasını kapsayan yasal metinlerdir. Bu yüzden, bu tez için çalışma alanını sınırlandırmak amacıyla, tez konusu olarak “DTÖ Reformu ve Türkiye” belirlenmiştir ve bu konu gerçekçi ve liberal Uluslararası İlişkiler teorileri ile anlaşılmaya ve açıklanmaya çalışılmıştır. Tez çalışmasında bütünlüğün sağlanabilmesi ve konuların daha iyi anlaşılabilmesi için bu çalışmada sırasıyla ‘DTÖ’, ‘DTÖ Reformu’ ve ‘DTÖ Reformu ve Türkiye’ olmak üzere üç ana başlık incelenmiştir.

Anahtar Kelimeler: Dünya Ticaret Örgütü, DTÖ, DTÖ Reformu, DTÖ Reformu ve Türkiye.

To my mother, father and lovely brother

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LIST OF ABBREVIATIONS

AB	Appellate Body
AOSIS	Alliance of Small Island States
Dispute Settlement Understanding/ DSU	Understanding on Rules and Procedures Governing the Settlement of Disputes
DSB	Dispute Settlement Body
ECOSOC	The United Nations Economic and Social Council
EFTA	European Free Trade Association
EU	European Union
GATS	General Agreement on Trade in Services
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
HOD	Heads of Delegations
IMF	International Monetary Fund
ITO	International Trade Organization
LDC	Least-developed Country
MFN	Most Favoured Nation
MTA	Multilateral Trade Agreement
MTS	Multilateral Trading System
NAM	Non-Aligned Movement
NATO	North Atlantic Treaty Organization
NGO	Non-Governmental Organization
OIC	Organisation of Islamic Cooperation
OECD	Organisation for Economic Co-operation and Development
PRC	People's Republic of China
RTA	Regional Trade Agreement
S&D	Special and Differential
Secretariat	Secretariat of the World Trade Organization
SPS	Sanitary and Phytosanitary (measures)
ST	Special Treatment (in Annex 5, Agreement on Agriculture)
TPRB	Trade Policy Review Body

TRIPS	Trade-Related Aspects of Intellectual Property Rights
TPRM	Trade Policy Review Mechanism
UK	United Kingdom
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
USA	United States of America
USSR	Union of Soviet Socialist Republics (Soviet Union)
WEO	World Economic Outlook
World Bank	International Bank for Reconstruction and Development
WWII	World War II
WTO	World Trade Organization
WTO Agreement	Agreement Establishing the World Trade Organization

CHAPTER 1

INTRODUCTION

Amin Maalouf, an influential Lebanese-French author, expresses his concerns about the today's world in his book called 'Disordered World':

“at the present point in our evolution, humanity faces new dangers never before encountered in our history. They call for unprecedented global solutions. If they are not found in the near future, it will not be possible to save any of the things which give our civilisation its greatness and beauty. Yet to date there are few indications that provide reason to hope that humanity will be able to overcome its differences, devise imaginative solutions and put them into effect. There are many signs that suggest that the world is so severely out of joint that decline will be hard to prevent.”¹

In the context of this thesis, serious problems in the World Trade Organization (WTO) can be put forward as one of the new dangers unprecedented in the history, mentioned by Amin Maalouf. Before addressing these issues, it would be appropriate to briefly mention the importance of WTO. As Ian Hurd says: “International politics cannot be understood without thinking about international organizations, and that international organizations cannot be understood without thinking about their legal as well as their political aspects.”² After the Second World War, three major international economic structures were built, and these institutions were aimed to contribute to ensuring global welfare, international peace and security. One of these is the WTO, an inter-governmental organization, which was established by the Marrakesh Agreement in 1995, gradually liberalizing trade. In addition, the WTO is of great importance since it is the only international organization where global rules of trade are set and disputes are resolved. As of January 2020, the WTO has 164

1 Amin Maalouf, *Disordered World: Setting a New Course for the Twenty-first Century*, trans. George Miller, New York: Bloomsbury, 2011, p. 15.

2 Ian Hurd, *International organizations: politics, law, practice (6th Edition)*. Cambridge, UK: Cambridge University Press, 2014, p. 7.

members and accounts for 98% of world trade, and a total of 22 countries are negotiating membership.³

In the light of the above information, WTO is an issue worth working on. However, WTO agreements are legal texts covering agriculture, telecommunications, government purchases, textiles and clothing, intellectual property rights, industrial standards and product safety, banking, and food sanitation regulations and much more. Therefore, ‘WTO Reform and Turkey’ are determined as a thesis topic in order to limit the working area for this thesis study. Moreover, there are three other reasons for choosing this topic. Firstly, the WTO reform debate remains a new issue, despite the historical background of the problems in the WTO system. Secondly, when the literature is analyzed, it can be seen that ‘WTO Reformation and Turkey’ is a previously unstudied topic. Thirdly, when looking at the literature, it is understood that WTO reformation has not been studied much in the context of International Relations theories.

The skeleton of the thesis consists of three main titles and these are respectively: 2) World Trade Organization, 3) WTO Reformation, and 4) WTO Reformation and Turkey. In order to better understand the topic, firstly, the WTO will be explained. A brief historical journey, from the middle of the 18th century to the signing of the GATT and then to the establishment of the WTO, will be mentioned. Afterwards, the structure, decision-making process, basic principles, exceptions to basic rules of the WTO will be discussed. At the end of the section, the WTO system will be tried to understand and explained with realist and liberal theories of International Relations. At this point, it would be appropriate to briefly touch upon the relationship of International Relations theories with international organizations. International Relations theories generally deal with international organizations in two ways: The first one is the theoretical explanation of the establishment of organizations, while the other one is the theoretical explanation of organizational behavior. In this thesis, the second way will be followed, and it will be tried to be made the theoretical explanation of the behavior of the WTO, an international organization.

³ “WTO in Brief”, available at https://www.wto.org/english/thewto_e/whatis_e/inbrief_e/inbr_e.htm#wto_secretariat (access on 25.07.2020).

In the third section, first of all, the concept of ‘reform’ will be highlighted, and the first research question of the thesis study will be raised as follows: Does the WTO system need reform? After answering this question as “yes”, the second research question will be asked: Why does the WTO system need reform? The reasons for the WTO reform will be given under six headings and these are respectively: 1) Changing international system, 2) Description of ‘developing countries’, 3) Dispute Settlement Body, 4) Representation & Participation, 5) Transparency & Notification, and 6) Regional Trade Agreements. In addition, the positions of the US, the EU, China, Ottawa Group, and other developing countries, including their views and recommendations on WTO reform, will be analyzed under this chapter as well. Finally, WTO reform will be explained through two mainstream International Relations theories.

In the fourth section, the possible impact of the WTO reform positions, prepared by countries or country groups, on Turkey will be tried to be examined. Thus, “What will be the expected impacts of the WTO reform positions on Turkey?” is the third research question of this thesis. In order to answer this question, firstly, it will be given a brief historical background about the relationship between Turkey and the WTO. Secondly, the possible impact of the WTO reform positions on Turkey will be evaluated separately. Lastly, it will be tried to be made a current theoretical discussion.

Theoretical framework of the thesis will be continued under these three main sections and theoretical integrity will be tried to be achieved. As stated above, although realist and liberal theories constitute the main approaches on this subject, the sub-branches of these two theories are also examined. From this point of view, neo-realism and neo-liberalism are thought to better explain WTO reform.

In this thesis, quantitative and qualitative research methods will be used. For example, under the title of ‘changing international system’, which has been suggested as one of the causes of WTO reform, four macroeconomic indicators have been chosen to understand whether the global economic system has really changed. These are respectively: 1) Percentage of total GDP for developing, developed, transition, and Least Developed Countries (LDCs), 1971-2018, 2) Annual average growth rates per capita for selected countries and economies, 1971-2018, 3) Share of selected countries in world exports of goods, 1971-2018, 4) Share of trade in services and

goods within total global exports, 2005-2018. In this place, it is useful to explain two important points. Firstly, when the country classification of the WTO is examined, it is seen that the WTO members are evaluated in two main groups: 1) Developed countries and 2) Developing countries. However, there are no agreed definitions of “developed” member or “developing” member in the WTO. In addition, some of the developing countries are considered the LDCs. Therefore, in order to understand the distribution of power within the WTO system, these three main country groups have been adopted, and transition economies, whose importance has been decreasing since the 1990s, are not included in other figures. The second important point concerns the selected time periods. For three of the four macroeconomic indicators, 1971 was taken as the base year because the category of the LDC was established by the UN General Assembly resolution 2768 (XXVI) of November 18, 1971.⁴ Therefore, this date was chosen as the year of starting for a reasonable comparison. With a similar logic, 2005 was chosen for ‘trade in services’, which is a very new field compared to ‘trade in goods’, because it is considered that the most reliable data, which can be made comparison, started from this date.

In the light of the above findings, another sub-question will be asked in the thesis study: Is People's Republic of China really a developing country? In fact, this sub-question is one of the points that form the heart of the reform debates in the WTO. Therefore, it would be more logical to add the Chinese factor to the selected country groups above to evaluate the importance of China, and it will also be better understood which countries or country groups have the advantages in the WTO system.

In summary, various data will be retrieved data from the databases “United Nations Conference on Trade and Development (UNCTAD), WTO, International Monetary Fund and World Economic Outlook (WEO)” and tables related to them will be prepared in the thesis study. As primary sources, official documents and legal texts in WTO will be examined through WTO Documents Online. In addition, WTO website and online courses of the WTO, which is taken with a specific permission will also be used in this context. Moreover, documents, explanations and declarations

⁴ United Nations, Handbook on the Least Developed Country Category: Inclusion, Graduation and Special Support Measures, United Nations Publications 2018, p. 1-2.

provided by many official sources such as the White House, the United States Trade Representative, the European Commission, the European Union, the State Council Information Office of China and the Canadian government will be examined. Furthermore, reports of different non-governmental organizations on the WTO reform will be discussed, the views of researchers in many parts of the world will be included, and news on this topic from the international media will be mentioned in this thesis.

CHAPTER 2

WORLD TRADE ORGANIZATION

The WTO is an inter-governmental organization, which was established by the Marrakesh Agreement in 1995, gradually liberalizing trade. Trade liberalization is the basic approach accepted by WTO Member governments to advance economic growth and development.⁵ In addition, the WTO is very crucial international organization since it is the only international organization dealing with the global rules of trade. As of January 2020, the WTO has 164 members and accounts for 98% of world trade, and a total of 22 countries are negotiating membership.⁶

2.1. Historical Background

Before mentioning about the creation of the WTO, one question may be asked: Was there a need to establish an international trade organization? Since the middle of the 18th century, economic theory has introduced that lowering tariffs would be advantageous for most countries, and David Ricardo's idea of 'specialization' on the basis of comparative advantage would increase the mutual gains between the parties. As Narlikar argues, "in fact, as per classical trade theory, the gains from trade accrue to any country that lowers trade barriers irrespective of what other countries do, thereby suggesting that the rational actor may be expected to pursue unilateral trade liberalization."⁷

The Great Depression, which began in the US in 1929, was worldwide economic downturn in the history of the industrialized world and lasted until 1939. Many factors have been put forward on the causes of this depression. In Encyclopædia Britannica, as Christina D. Romer and Richard H. Pells explain:

5 "The WTO and the Multilateral Trading System," Online Course of Introduction to the WTO, 2017, p. 3.

6 "WTO in Brief", available at https://www.wto.org/english/thewto_e/whatis_e/inbrief_e/inbr_e.htm#wto_secretariat (access on 13.01.2020).

7 Amrita Narlikar, *The World Trade Organization*, Oxford University Press, 2005, p. 3.

“Four factors played roles of varying importance. (1) The stock market crash of 1929 shattered confidence in the American economy, resulting in sharp reductions in spending and investment. (2) Banking panics in the early 1930s caused many banks to fail, decreasing the pool of money available for loans. (3) The gold standard required foreign central banks to raise interest rates to counteract trade imbalances with the United States, depressing spending and investment in those countries. (4) The Smoot-Hawley Tariff Act (1930) imposed steep tariffs on many industrial and agricultural goods, inviting retaliatory measures that ultimately reduced output and caused global trade to contract.”⁸

Christina D. Romer and Richard H. Pells evaluate how the Great Depression affected the American economy as follows:

“In the United States, where the Depression was generally worst, industrial production between 1929 and 1933 fell by nearly 47 percent, gross domestic product (GDP) declined by 30 percent, and unemployment reached more than 20 percent. Because of banking panics, 20 percent of banks in existence in 1930 had failed by 1933.”⁹

As US State Department explains, “The key aspect in transforming national economic difficulties into worldwide Depression seems to have been a lack of international coordination as most governments and financial institutions turned inwards.”¹⁰ On the other hand, Great Britain could not play its former role and became the first country to abandon the gold standard¹¹ in 1931. The US dropped off the gold standard in 1933.

The year 1933 witnessed another important development for the international economic system. The London Monetary and Economic Conference was a meeting of

8 Christina D. Romer and Richard H. Pells, “The Great Depression” in *Encyclopædia Britannica*, available at <https://www.britannica.com/event/Great-Depression> (access on 19.01.2020).

9 Christina D. Romer and Richard H. Pells, “The Great Depression” in *Encyclopædia Britannica*, available at <https://www.britannica.com/event/Great-Depression> (access on 21.01.2020).

10 United States Department of State: Office of Historian, *The Great Depression and U.S. Foreign Policy*, available at <https://history.state.gov/milestones/1921-1936/great-depression> (access on 21.01.2020).

11 Gold Standart: “a system of providing and controlling the exchange of money in a country, in which the value of money (compared to foreign money) is fixed against that of gold”, available at <https://dictionary.cambridge.org/dictionary/english/gold-standard> (access on 21.01.2020).

delegates from 66 countries; 8 prime ministers, 80 finance ministers and central bankers, 20 foreign ministers and two heads of state - King Faisal of Iraq and Swiss President Edmund Schulthess.¹² Those who gathered in London's Geological Museum, which was hosted by UK Prime Minister Ramsay MacDonald and organised by the League of Nations in June 1933. The aim of the conference was to resolve the economic crisis, revive international trade and stabilize currency exchange rate. Nevertheless, this initiative had failed due to the US President Franklin D. Roosevelt's "the New Deal" which was a domestic programs and projects to aimed to bring prosperity to Americans between 1933 and 1939. As it is known that the New Deal included the three "Rs" which are Relief, Recovery, and Reform. As it is understood, President Franklin Roosevelt concentrated his efforts to move the US out of the Great Depression until the beginning of World War II. In fact, in his Inaugural Address in March of 1933, he gave the signals of the policy he would pursue in the following period:

“Our international trade relations, though vastly important, are in point of time and necessity secondary to the establishment of a sound national economy. I favor as a practical policy the putting of first things first. I shall spare no effort to restore world trade by international economic readjustment, but the emergency at home cannot wait on that accomplishment.”¹³

With this opposition from the US President Franklin D. Roosevelt, the conference had collapsed within a month, and leaders who came together to resolve the economic crisis failed to reach an agreement. As a result, the Great Depression had continued longer than expected until the late 1930s. In addition to this, the progress of the Great Depression led to rising unemployment and political instability across Europe. For example, for Germany, which has problems with paying debts and war compensation with the Allies, the US-backed Dawes Plan (1924) and Young Plan (1929) were presented as a possible solution to these challenges. These economic

12 Steve Schifferes, “Lesson for G20 from 1933 London summit” in BBC News, available at <http://news.bbc.co.uk/2/hi/business/7954532.stm> (access on 25.01.2020).

13 Robert Daliek, *Franklin D. Roosevelt and American Foreign Policy, 1932-1945*, Oxford University Press, 1979, p. 23.

troubles made a great contribution to Hitler's movement which is called the National Socialist German Workers' Party (NSDAP).

The Japanese invasion of Manchuria (now Northeast China) on September 18, 1931, German expansionism policy under Hitler, who became Chancellor on January 30, 1933, and the Italian occupation of Ethiopia on October 3, 1935 contributed to political instability worldwide and caused the rise of international trade barriers. Furthermore, WWII began in Europe after Germany invaded Poland on September 1, 1939. In response to Germany's attack on Poland, Great Britain and France declared war on Germany on September 3, 1939. The major belligerent powers were the Allies- including Great Britain, France, the US (after its entry on December 8, 1941), the Soviet Union (after its entry in June 1941), and China- the Axis powers- Germany, Italy, and Japan.

Towards the end of the Second World War, the leaders of the Allies had different views on the establishment of necessary institutions and effective measures to prevent the world from encountering such terrible events again. For example, Cordell Hull, who served as the US Secretary of State from March 4, 1933 to November 20, 1944, were the prominent person of the return to open markets. In addition, he desired to damage British imperial preference and to cut down US protectionism from the heights of the Smoot-Hawley tariff.¹⁴ According to Hull, he stated that “unhampered trade dovetailed with peace; high tariffs, trade barriers and unfair economic competition with war”.¹⁵ Moreover, Cordell Hull demanded the removal of high tariff barriers which had progressively impeded the US foreign trade since the 19th century. After that, the Reciprocal Trade Agreements Act (March 1934), which set the pattern for tariff reduction on a MFN basis and was a pioneer to the international GATT, was passed in Congress thanks to Hull’s success.¹⁶ Hull worked hard to keep the US administration pursuing a more open and non-discriminatory international trade policy. As he stated in 1937:

14 Amrita Narlikar, Martin Daunton, and Robert M. Stern. *The Oxford handbook on the World Trade Organization*, New York: Oxford University Press, 2012, p. 50.

15 Cordell Hull, *The Memoirs of Cordell Hull*, Volume I, New York The Macmillan Company, 1948, p. 81.

16 The Editors of Encyclopædia Britannica, “Cordell Hull United States Statesman” in Encyclopædia Britannica, available at <https://www.britannica.com/biography/Cordell-Hull> (access on 29.01.2020).

“I have never faltered, and I will never falter, in my belief that enduring peace and the welfare of nations are indissolubly connected with friendliness, fairness, equality and the maximum practicable degree of freedom in international trade.”¹⁷

As it is understood from the above, international trade policy was chaotic until the end of World War II, which made the international system unstable. In order to find a solution to this problem, the Bretton Woods conference, officially called as the United Nations Monetary and Financial Conference, was held at Mount Washington Hotel in New Hampshire, July 1-22, 1944. The Bretton Woods conference, attended by representatives from 44 countries, aimed to establish the following economic institutions: “the International Bank for Reconstruction and Development (or the World Bank), the International Monetary Fund (IMF), and the International Trade Organization (ITO)”.

After the Second World War, hard efforts were made for the purpose of building the ITO. Hereby, the Havana Charter, which is officially known as the Final Act of the UN Conference on Trade and Employment, for an ITO to be submitted to the Governments represented was committed to paper in the Conference which lasted from November 21, 1947 to March 24, 1948 in Havana.¹⁸ Even though the Havana Charter was signed by 53 of the 56 countries, it was never ratified. Because of the domestic opposition in the US, the agreement never came into existence and the formation of the ITO failed. On the other hand, even if the ITO could not be established, it provided two important developments. According to Richard Toye, firstly, the relationship between the ITO and the GATT, which was envisaged as a transitional measure to adjust international trade before the formation of the ITO, is crucial.¹⁹ In here, this question might be asked: Why is this relationship important? As an answer to this question, Toye states that making efforts to found the ITO gave

¹⁷ Cordell Hull, *Economic Barriers to Peace*, New York: Woodrow Wilson Foundation, 1937, p. 14.

¹⁸ United Nations Conference on Trade and Employment. 1948. *Havana charter for an International Trade Organization, March 24, 1948*. (United Nations [UN]) UN Doc E/CONF.2/78, p. 5.

¹⁹ Richard Toye, “The International Trade Organization”. In Amrita Narlikar, Martin Daunton, and Robert M. Stern. *The Oxford handbook on the World Trade Organization*, New York: Oxford University Press, 2012, p. 85.

birth to the GATT and this leads to the creation of the WTO.²⁰ Secondly, Toye claims that the ITO is a signal of an essential ‘staging post’ in transition between two conflicting types of trade liberalism.²¹ Casper Sylvest touches upon the issue as follows: moral internationalism, which is the acceptance that economic welfare was best guaranteed by governments one-sidedly diminishing trade barriers, firmly effected free trade arguments in late 19th century.²² Otherwise, after 1945, institutional internationalism, the assumption that accomplished liberalization required an international regulatory framework with the intent of enforcing good behavior and avoiding free riding, was almost always relying on free trade arguments.²³

If it is necessary to make a comparison on official documents, there are significant differences between the ITO and the GATT (1947). First of all, legally, the GATT (1947) was envisaged as a part of the Havana Charter for the ITO during the UN Conference on Trade and Employment but the Havana Charter never came to existence. For this reason, the GATT was applied through a Protocol of Provisional Application on and after 1 January 1948. In this way, the GATT 1947 remained provisionally in effect until its provisions became part of the GATT 1994 which is an element of the WTO Agreement since the Havana Charter never entered into force. Secondly, the scope of the ITO was more extensive than the content of the GATT. For example, the GATT was contained topics in which were in the Chapter IV, called as the Commercial Policy, of the Havana Charter. Therefore, it might be said that the GATT was applied only to governments. Thirdly, the term “CONTRACTING PARTIES” (in the capital letters) was used to mention to joint action by the members in the text of GATT, on the other hand, the emphasis is on terms ‘membership’ or ‘organization’ in other agreements. Gilbert Winham, who is an GATT analyst, has characterized it as a “rule-oriented, formally- contracted, non-organizational form of

20 Ibid.

21 Ibid.

22 For the distinction between the two types of internationalism, see Casper Sylvest, *British Liberal Internationalism, 1880-1930: Making Progress?* (Manchester, 2009), p. 10. For their application to trade issues, see Richard Toye, ‘The International Trade Organization’, in *The Oxford Handbook of the World Trade Organization*, edited by Amrita Narlikar, Martin Daunton, and Robert M. Stern, New York: Oxford University Press, 2012, p. 85-101.

23 Ibid.

cooperation in international affairs”.²⁴ Also, Winham states that the GATT had not the legal personality like other international organizations, and it was unable to authorize collective action against individual countries.²⁵ Fourthly, in many aspects, the ITO rules determined a complicated and surprisingly egalitarian notion of representation; comparatively, the GATT decision-making system was inchoate.²⁶ For instance, clause (4) of Article XXV of the GATT stated, “Except as otherwise provided for in this Agreement, decisions of the CONTRACTING PARTIES shall be taken by a majority of the votes cast.” However, in practice, the norm of decision-making by consensus was developed by the GATT: “if none of the parties present objected to it, a decision would be made.”²⁷

When the non-existent organizational structure of the GATT is analyzed, it can be said that abovementioned decisions were generally made in the Green Room meetings, which worked by invitation only. At the same time, the little attention of the GATT on power asymmetries, which seriously disadvantaged developing countries in their trade relations, meant institutional weakness.²⁸ Despite the dissatisfaction and criticism of greatest majority of developing countries, the GATT had continued its existence from January 1, 1948 to January 1, 1995. Nevertheless, weak institutional structure of the GATT can be considered as the beginning of the coming together of developed and developing countries. As Narlikar asserts that the GATT covered the commercial interests of the developed countries while it did not interfere with domestic jurisdictions.²⁹

During eight rounds of trade negotiations from 1947 to 1995, rules for Multilateral Trading System (MTS) were developed by the GATT. As it can be

24 Amrita Narlikar, *The World Trade Organization*, Oxford University Press, 2005, p. 16.

25 Ibid.

26 John H. Barton, Judith L. Goldstein, Timothy E. Josling, & Richard H. Steinberg, *The Evolution of the Trade Regime: Politics, Law, and Economics of the GATT and the WTO*, Princeton University Press, 2008, p. 36.

27 Amrita Narlikar, *The World Trade Organization*, Oxford University Press, 2005, p. 17.

28 Ibid.

29 Ibid., p. 19.

deduced from Table 1, during the GATT trade negotiations in the early years, the rounds focused on reducing tariffs, but later the arrangement of the GATT expanded, covering other trade barriers within its member states (officially “contracting parties”).

Table 1-1. GATT Rounds of Trade Negotiations ³⁰

Year	Name	Subjects Covered	Parties
1947	Geneva	Tariffs	23
1949	Annecy	Tariffs	13
1951	Torquay	Tariffs	38
1956	Geneva	Tariffs	26
1960-1961	Dillon Round	Tariffs	26
1964-1967	Kennedy Round	Tariffs and anti-dumping measures. Section on trade and development.	62
1973-1979	Tokyo Round	Tariffs and non-tariff measures, "framework" agreements. Enabling Clause (development).	102
1986-1994	Uruguay Round	Creation of WTO. Tariffs, non-tariff measures, rules, services, intellectual property, dispute settlement, textiles, agriculture, etc.	123

Since the establishment of the GATT, it provided the liberalization of much of world trade by reducing tariffs and other trade barriers. Especially in the 1950s and 1960s, continuous declines in tariffs contributed to the considerable growth (roughly 8% per year) of world trade.³¹ Otherwise, with the economic recession in the beginning from 1970s to 1980s, the achievement of the GATT in reducing tariffs to large extent, governments began to design other protectionism for their sectors

30 “The WTO and the Multilateral Trading System,” Online Course of Introduction to the WTO, 2017, p. 16.

31 “The GATT years: from Havana to Marrakesh”, available at https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact4_e.htm#rounds (access on 19.01.2020).

exposed to remarkable foreign competition.³² By the 1980s, the world had changed because communication and transportation opportunities increased, which enabled the world economy to become globalized. In the continuation of this process, the troubles were diversified and rules such as technical barriers to trade, sanitary and phytosanitary barriers to trade, and other forms of non-tariff barriers were introduced as solutions to these problems. However, as Zeiler argues that the GATT had not an institutional framework, a secretariat to administer it, and legal relations to an organization (as its parent body, the ITO, never came to existence).³³ It was not only surprising but also instructive that GATT survived for 47 years and became an ‘vital force’ for international relations today.³⁴ At the conclusion of the Uruguay Round, which is inaugurated at Punta del Este, Uruguay in September 1986, and ended at Marrakesh, Morocco, in March 1994, the GATT 1947 was replaced by a new organization: the World Trade Organization. This was a milestone of international economic system.

2.2. WTO Structure

When it is analyzed the scope of the WTO, clause (4) of Article II of the Agreement Establishing the World Trade Organization states:

“The General Agreement on Tariffs and Trade 1994 as specified in Annex 1A (hereinafter referred to as “GATT 1994”) is legally distinct from the General Agreement on Tariffs and Trade, dated 30 October 1947, annexed to the Final Act Adopted at the Conclusion of the Second Session of the Preparatory Committee of the United Nations Conference on Trade and Employment, as subsequently

³² Ibid.

³³ Amrita Narlikar, Martin Daunton, and Robert M. Stern. *The Oxford handbook on the World Trade Organization*, New York: Oxford University Press, 2012, p. 103.

³⁴ John H. Jackson, *The Jurisprudence of GATT and the WTO: Insights on Treaty Law and Economics Relations*, Cambridge University Press, 2000, p. 18.

rectified, amended or modified (hereinafter referred to as “GATT 1947”).”³⁵

In the light of the information mentioned above, it can be said that the GATT 1994 is legally apart from the GATT 1947 since the GATT 1994 contains by reference the provisions of the GATT 1947. In addition, the structure of the WTO is shaped in Article IV of the Marrakesh Agreement Establishing the WTO. Accordingly, it would be reasonable to stick to the point with the Ministerial Conference. As per Article IV.1 of the WTO Agreement, representatives of all the Members meet at least once every two years.³⁶ Moreover, the Ministerial Conference is the topmost decision-making body in the WTO. Therefore, decisions on all matters under any of the Multilateral Trade Agreements (MTA) could be taken by the Ministerial Conference.³⁷ In comparison to the GATT, it was aimed to reinforce the reliability of its rules in local political arenas and strengthen the WTO's political guidance with the more frequent participation of Trade Ministers in the WTO.³⁸

Secondly, the everyday functioning of the WTO in between the Ministerial Conferences is conducted by these three branches: “the General Council”, “the Dispute Settlement Body”, and “the Trade Policy Review Body”. Even though they gather under different terms of reference, all three are indeed the same, which means they are all the General Council.³⁹ Also, the General Council is responsible for accomplishing the certain assignments which are given to it by the WTO Agreement. In order to better understand the General Council, it is necessary to closely examine the Dispute Settlement Body (DSB) and the Trade Policy Review Body (TPRB).

The settlement of disputes in the WTO is managed by the DSB. A dispute usually occurs when a WTO Member takes a trade policy measure that one or more

35 WTO Agreement: Marrakesh Agreement Establishing the World Trade Organization, Article II:4, Apr. 15, 1994, 1867 U.N.T.S. 154, 33 I.L.M. 1144 (1994) [hereinafter WTO Agreement]

36 WTO Agreement, Article IV:1, Apr. 15, 1994, 1867 U.N.T.S. 154, 33 I.L.M. 1144

37 Ibid.

38 Bernard Hoekman, “The WTO: Functions and Basic Principles” in *Development, Trade, and the WTO: A Handbook*, edited by Bernard Hoekman, Aaditya Mattoo, and Philip English, Washington, D.C.: the World Bank, 2002, p. 46.

39 “Whose WTO is it anyway?”, available at https://www.wto.org/english/thewto_e/whatis_e/tif_e/org1_e.htm (access on 26.01.2020)

Members consider to be in violation of the obligations set forth in the covered Agreements.⁴⁰ Within the framework of Article 1.1 of Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), the WTO dispute settlement system applies to all disputes under the WTO “covered” Agreements listed in Appendix 1 of the DSU.⁴¹ Differently from the GATT 1947, the WTO dispute settlement system has fixed timetable [The approximate duration of a dispute is 12 months (up to the panel stage) and 1 year and 3 months (if there is appeal)]⁴², and this process includes the following main stages: 1) Consultations (between the parties), 2) Adjudication, 3) Panels (if consultations fail), 4) Appellate Body (AB) (In comparison to the panel, the Appellate Body is a permanent body, and each appeal is heard by three members of a permanent seven member AB set up by the DSB), 5) Dispute Settlement Body (Before becoming binding for the parties to the dispute, the advices of the panels and AB have to be adopted by the DSB.)⁴³, 6) Implementation and Situations of Non-Compliance (The “losing” party has to follow the rules after the report is adopted by the DSB. If the “losing” party does not bring its measure in line with the reports, countermeasures like trade compensation and suspension of concessions are provided by the DSU.) In addition to this, the parties can solve their disputes themselves at any phase. Finally, the WTO Dispute Settlement Mechanism differs from the previous GATT as follows: In the previous GATT, decisions were taken by consensus, and a single objection could block this decision. In the current WTO dispute settlement system, the "negative consensus rule" (any country which wishes to block a decision must convince all other WTO members to share its own opinion) is applied. Therefore, this system has become quasi-automatic.

National trade policies of each Member are reviewed on a regular basis under the Trade Policy Review Mechanism (TPRM), which is listed in Annex 3, and this

40 “Dispute Settlement Understanding” Online Course of Overview of the WTO Agreements, 2017, p. 63.

41 WTO Agreement, Annex 2 Dispute Settlement Understanding Article I:1, Apr. 15, 1994, 1867 U.N.T.S. 154, 33 I.L.M. 1144

42 “Dispute Settlement Understanding” Online Course of Overview of the WTO Agreements, 2017, p. 66.

43 Ibid., p. 68.

mechanism is managed by the TPRB. Narlikar states that the TPRM has three targets. According to her, the first one is that the TPRM tries to ensure transparency of Members' trade policies by way of regular monitoring.⁴⁴ Secondly, it attempts to enhance the quality of intergovernmental and public discussions on the issues. The last one is that the TPRM aims to provide a multilateral evaluation of the effects of policies on the global trading system. Each review consists of two documents, one prepared by the relevant government and the other prepared by Trade Policy Review division of the WTO. When it is analyzed the Paragraph C "Procedures for review" in Annex 3, the first four trading entities are subject to review every two years, and the next 16 shall be reviewed every four years.⁴⁵ Other members are subject to review every six years except Least-Developed Countries (LDC). On the one hand, the General Council approved historic reforms to the TPRM on 26 July 2017. The review cycle mentioned above has changed with this decision as follows: It changed to frequencies of three, five, or seven years respectively, with the largest economies reviewed most frequently.⁴⁶ The new amendments took effect for all Members on 1 January 2019. This Decision is of vital importance because it is the first amendment made by the General Council to the TPRM established in 1989. In addition, this is the second amendment to the WTO Agreement after the amendment to the WTO's intellectual property (TRIPS) agreement that entered into force on 23 January 2017.⁴⁷

Thirdly, three councils, on goods, on services, and on trade-related intellectual property rights, operate under the guidance of the General Council. The Council for Trade in Goods oversees the functioning of the MTAs in Annex 1A. The Council for Trade in Services oversees all issues regarding Annex 1B: the General Agreement on Trade in Services (hereinafter referred to as "GATS").⁴⁸ The Council for Trade-

44 Amrita Narlikar, *The World Trade Organization*, Oxford University Press, 2005, p. 89.

45 WTO Agreement, Annex 3 Trade Policy Review Mechanism "Paragraph C. Procedures for review", Apr. 15, 1994, 1867 U.N.T.S. 154, 33 I.L.M. 1144

46 WTO (2019), *Status of WTO Legal Instruments: 2019 Edition*, OECD Publishing, Paris, <https://doi.org/10.30875/c7043240-en>, p. 230. Amendments specified in the General Council Decision of 26 July 2017 (WT/L/1014) to the Trade Policy Review Mechanism entered into force on 1 January 2019 (WT/Let/1423).

47 "General Council approves first ever amendment to Trade Policy Review Mechanism", available at https://www.wto.org/english/news_e/news17_e/tpr_26jul17_e.htm (access on 04.02.2020)

48 WTO Agreement, Article IV:5, Apr. 15, 1994, 1867 U.N.T.S. 154, 33 I.L.M. 1144

Related Aspects of Intellectual Property Rights (hereinafter referred to as the “Council for TRIPS”) oversees all issues related to the TRIPS Agreement.

Fourthly, some other subsidiary bodies focusing on horizontal issues report directly to the General Council. For example, there are six other bodies that work on more specific issues, and they report to the General Council. Their coverage includes trade and environment; trade and development (with a sub-committee on LDCs); balance of payments restrictions; Regional Trade Agreements; and budget, finance and administration. Besides these organs, the bodies that are formed permanently are commonly named "Working Groups" or "Committees", while temporarily founded bodies are called "Working Parties", in illustrated in Figure 2.1.

In addition to these, there are also informal meetings that include full membership, such as the Heads of Delegations (HODs). Recently, it is common practice for the chairman of the negotiating group to seek reconciliation with the delegations individually, in groups of two or three, or in groups of 20-30 people from the most interested delegations.⁴⁹

49 “Whose WTO is it anyway?”, available at https://www.wto.org/english/thewto_e/whatis_e/tif_e/org1_e.htm (access on 06.02.2020)

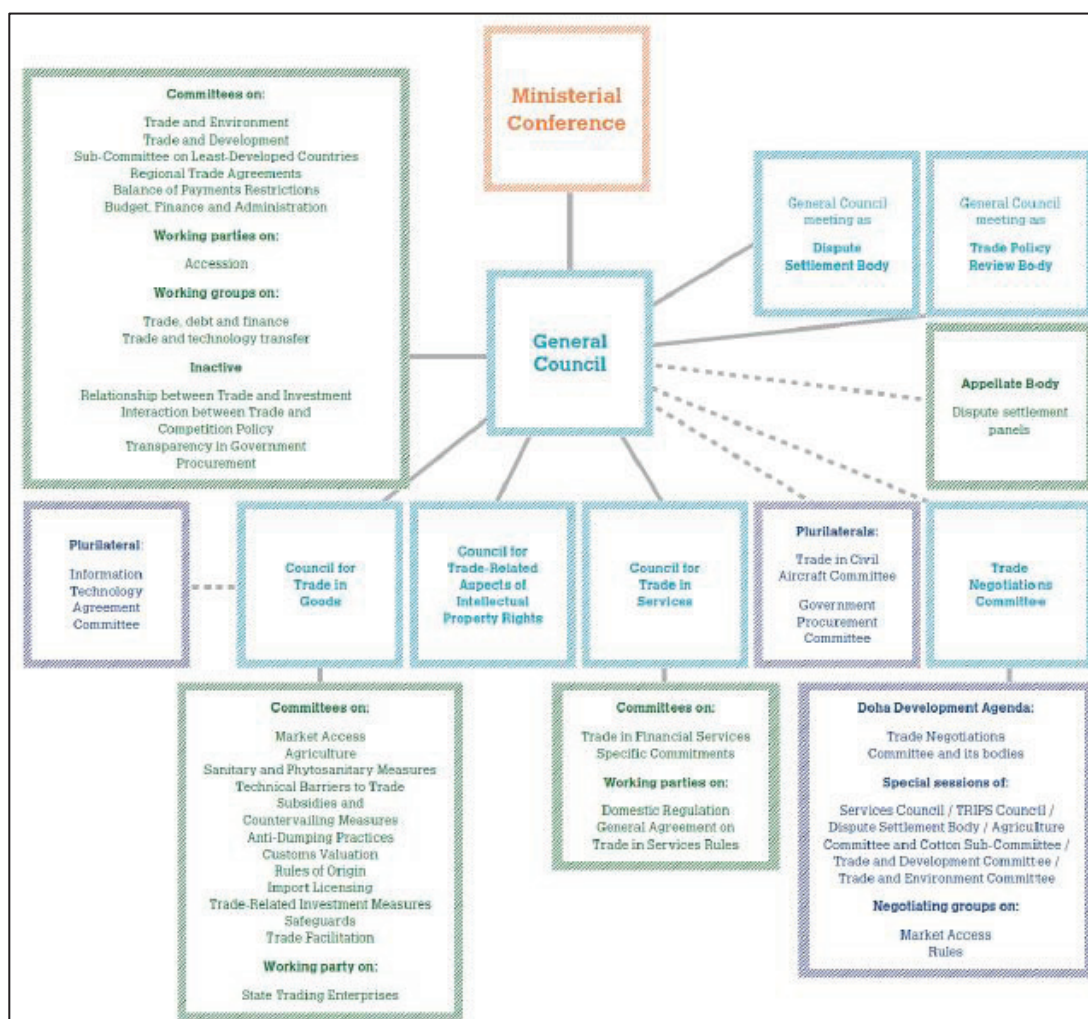


Figure 2-1. WTO Organization Chart⁵⁰

2.3. WTO Decision-Making Process

The WTO is a member-driven international organization which means decisions taken by consensus among all members. As it was mentioned in section 2.2., the top-level decision-making body is the Ministerial Conference in the WTO. The Director-General is appointed by the Ministerial Conference and his/her powers, duties, term of office and conditions of service are determined according to the

⁵⁰ “Understanding the WTO: The Organization”, available at https://www.wto.org/english/thewto_e/whatis_e/tif_e/org2_e.htm (access on 07.02.2020)

regulations adopted by the Ministerial Conference.⁵¹ The Secretariat, which includes the technical support for the various councils, committees and the Ministerial Conference mentioned in section 2.2, is headed by the Director-General. In contrast to other international economic organizations like World Bank (approximately 16,000 staff) and the IMF (almost 2,700 staff), the WTO Secretariat has nearly 630 staff. The Secretariat staff is appointed by the Director-General and their duties and conditions of service are determined by the Director-General in accordance with the regulations adopted by the Ministerial Conference.⁵² Therefore, the Director-General is an important position but the Secretariat does not itself have a decision making role.

According to Narlikar, three characteristics are essential to all the WTO decision-making processes: the norm of consensus-based decision-making, voting rules, and the importance of informal procedures which underlie all the stated formalities.⁵³ First of all, decisions are commonly taken by consensus among all members in the WTO. A consensus is reached at “if no Member, present at the meeting when the decision is taken, formally objects to the proposed decision”. The consensus practice is valuable for smaller countries, as it increases negotiation leverage in informal consultations and bargains before deciding, especially if they can form coalitions.⁵⁴ On the other hand, Narlikar asserts that the consensus-based decision-making mechanism harms developing countries in many different aspects (to be discussed in detail in section 3.2.4.). Secondly, in comparison to the World Bank or the IMF which have weighted voting systems, the WTO has one-member-one-vote system. In the Article IX of the WTO Agreement, it is written that if there is not a consensus, it shall be decided by voting. It is stated that “the decisions of the Ministerial Conference and the General Council shall be taken by a majority of the votes cast, unless stated otherwise in this Agreement or the relevant MTA.”⁵⁵ From

51 WTO Agreement, Article VI:2, Apr. 15, 1994, 1867 U.N.T.S. 154, 33 I.L.M. 1144

52 WTO Agreement, Article VI:3, Apr. 15, 1994, 1867 U.N.T.S. 154, 33 I.L.M. 1144

53 Amrita Narlikar, *The World Trade Organization*, Oxford University Press, 2005, p. 43.

54 Bernard Hoekman, “The WTO: Functions and Basic Principles” in *Development, Trade, and the WTO: A Handbook*, edited by Bernard Hoekman, Aaditya Mattoo, and Philip English, Washington, D.C.: the World Bank, 2002, p. 46.

55 WTO Agreement, Article IX:1, Apr. 15, 1994, 1867 U.N.T.S. 154, 33 I.L.M. 1144

this point of view, the WTO's voting system is more egalitarian than the IMF and the World Bank. For example, depending on the issue, a majority of 70% or 85% of the total voting power is required for approval of the important decisions in the IMF, and the US has 16.51% of total votes⁵⁶, which gives effective veto power to the US. Similarly, 85% of the total voting power are required to accept the proposed amendments in the World Bank⁵⁷ and the US has 15.42% of total votes.⁵⁸ Developing countries, which are in a stronger position compared to the World Bank and the IMF, have not used the advantage of vast majority they have. Narlikar sees the reason for this in the first feature of the WTO decision-making process, and it will be discussed in detail in Chapter 3.2.4. In addition to these two features, Narlikar argues that the importance of informal processes in WTO diplomacy is the final principle of all the WTO decision-making processes. Significant breakthroughs in the WTO's decision-making processes are rarely made in decision-making bodies in high-level councils. In the WTO, informal consultations play a crucial role in bringing a wide variety of membership rounds into an agreement, as decisions are taken by consensus, without voting.⁵⁹ Heads of Delegations (HODs) meeting, one of the informal meetings involving full membership, is an example of these. Apart from that, there are also "Green Room Meetings" which were very controversial in the past and were held at the initiative of the Director-General and had fewer participants than HODs meetings. The existence of these informal processes plays an important role in helping members

56 "IMF Members' Quotas and Voting Power, and IMF Board of Governors", available at <https://www.imf.org/external/np/sec/memdir/members.aspx#1> (access on 08.04.2020)

57 Agreement of the International Bank for Reconstruction and Development (IBRD), Article VIII: (a), available at <http://pubdocs.worldbank.org/en/722361541184234501/IBRDArticlesOfAgreement-English.pdf> (access on 10.02.2020). The governing document became effective on December 27, 1945, and has been amended three times: December 17, 1965, February 16, 1989, and June 27, 2012.

58 "International Bank for Reconstruction and Development Voting Power of Executive Directors", available at <http://pubdocs.worldbank.org/en/329671541106474760/IBRDEDsVotingTable.pdf> (access on 10.02.2020).

59 "Whose WTO is it anyway?", available at https://www.wto.org/english/thewto_e/whatis_e/tif_e/org1_e.htm (access on 12.02.2020)

reach a compromise in a difficult trade negotiation, but these informal processes cause two main problems⁶⁰ (to be discussed further in Chapter 3.2.4.).

In summary, when the WTO Agreement is examined, it can be said that the decision-making processes in the WTO mostly bear the traces of the GATT practices. If consensus cannot be achieved, voting is applied. Unless otherwise stated in this Agreement or the relevant MTAs, decisions are taken by a majority of the votes cast. Yet, the decision to adopt interpretations of the WTO Agreements and decisions on waivers of a member's obligations are taken by a three-fourths majority of the Members.⁶¹ The approval of amendments related to other issues shall be decided by a two-thirds majority of the Members. Decisions of the Ministerial Conference and the General Council are taken by a majority of the votes cast, unless otherwise stated in this Agreement or the relevant MTA.⁶²

2.4. The Basic Principles of the WTO

While institutions can exist without an organizational dimension, international organizations cannot exist without an institutional framework because their existence assumes a set of norms, rules and principles that enable them to act and are responsible for maintaining them.⁶³ Accordingly, the WTO, as an international organization, also has rules and these basic principles are non-discrimination, more open and predictable trade, transparency, special treatment for LDC Members. As it is known that the WTO agreements are legal texts covering agriculture, telecommunications, government purchases, textiles and clothing, intellectual property rights, industrial standards and product safety, banking, and food sanitation regulations and much more. However, some basic rules mentioned in the previous sentence are applied to these documents.

60 Amrita Narlikar, *The World Trade Organization*, Oxford University Press, 2005, p. 46.

61 Bernard Hoekman, "The WTO: Functions and Basic Principles" in *Development, Trade, and the WTO: A Handbook*, edited by Bernard Hoekman, Aaditya Mattoo, and Philip English, Washington, D.C.: the World Bank, 2002, p. 48.

62 WTO Agreement, Article IX:1, Apr. 15, 1994, 1867 U.N.T.S. 154, 33 I.L.M. 1144

63 Baylis, John, Steve Smith, and Patricia Owens, *The Globalization of World Politics: An Introduction to International Relations (6th Edition)*. New York, N.Y.: Oxford University Press, 2014, p. 275.

In addition, there are also the exceptions to the basic principles of the WTO, but they will be covered in the next subchapter.

First of all, non-discrimination, which has the most-favored-nation (MFN) rule, and the national treatment, is a primary principle of the WTO. The MFN principle means treating other WTO Members equally. In other words, if a WTO Member provides an advantage to a country, it has to provide such an advantage to all other WTO Members. This strengthens the understanding of "countries cannot normally discriminate between their trading partners" in the WTO agreements. Other element of the non-discrimination pillar is the national treatment, which means treating foreigners and locals equally. This principle guarantees non-discrimination between domestic and foreign products, services, or nationals. Therefore, the purpose of this rule is to ensure equality of competition between imported products and domestic products. These two components apply to trade in goods, trade in services and TRIPS. For example, while the MFN rule is contained in Article I of the GATT, Article II of the GATS, and Article IV of the TRIPS Agreement, the principle of "national treatment" is included in Article III of GATT, Article XVII of GATS, and Article III of TRIPS.

Secondly, if the principle of 'open and predictable trade' is divided into two separate words, the first phrase 'open trade' means decreasing or eliminating obstacles to trade, while the second phrase 'predictable trade' means trade measures will not be raised arbitrarily. One of the most obvious ways of advancing trade is to decrease trade barriers, which includes tariffs ("customs duties"), and non-tariffs barriers like quantitative restrictions (quotas). Occasionally, promising not to raise a trade barrier can be as important as reducing a barrier since this promise helps investors to see future opportunities more clearly.⁶⁴ This is called as "bound tariff", which is described as "a tariff for which a WTO Member accepts a legal commitment not to raise it above a certain level."⁶⁵ Increased tariff bindings after the Uruguay Round (1986-1994) were one of the greatest accomplishments for open and predictable trade. As it can be seen

64 "Principles of the trading system", available at https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm#seetable (access on 16.02.2020)

65 "What is a tariff binding?" Online Course of Overview of the Basic Principles of the WTO, 2017, p. 30.

from Table 2, developed countries raised the number of “bound rates” from 78% of product lines to 99%. The increase for developing countries was remarkable, while transition economies, countries which are changing from central planning to free markets, raised their bindings from 73% to 98%. For example, taxes on imports and the “bound rates” are nearly the same in developed countries. Nevertheless, the rates actually charged are lower than the “bound tariffs” in developing countries (the definition of developing countries will be discussed in Chapter 3.2.2.).

Table 2-1. Increased Tariff Bindings After the Uruguay Round⁶⁶

Percentages of tariffs bound before and after the 1986-94 talks		
	Before	After
Developed Countries	78	99
Developing Countries	21	73
Transition Economies	73	98
(These are tariff lines, so percentages are not weighted according to trade volume or value)		

Thirdly, transparency is another essential principle of the WTO. Transparency is crucial because it allows governments and traders to know trade rules around the world by having access to trade policies and regulations.⁶⁷ In this way, trade measures and practices taken by WTO Members are monitored. In addition, the principle of transparency is divided into two branches in the WTO. The initial one is “internal transparency”, the importance of this branch was emphasized by the WTO Members in Doha Ministerial Conference⁶⁸, is keeping the WTO informed in these ways: Domestic publication of Members’ trade regulations, review of Members’ national trade policies through the TPRM, notification of Members’ trade measures to the

66 WTO (2015), “Principles of the trading system” in *Understanding the WTO (Fifth edition)*, Geneva, p. 12.

67 “Transparency” Online Course of Overview of the Basic Principles of the WTO, 2017, p. 48.

68 WTO, Doha Ministerial Declaration adopted on 14 November 2001, WT/MIN(01)/DEC/1, paragraph 10, available at https://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_e.htm (access on 18.02.2020)

WTO, and other transparency mechanisms like WTO databases.⁶⁹ The last one “external transparency” is keeping the public informed via the WTO web site, initiatives and programs about WTO’s activities.

Fourthly, special rights were given to less developed countries in the WTO Agreements. These rights are called as “special and differential treatment” (S&D) provisions. This principle of "special and differential treatment" is applied for not only to the LDCs but also to developing countries. The fundamental aim of this rule is to reduce special challenges faced by many developing Members in taking advantage of trade liberalization. The S&D provisions comprise these: “longer time periods for implementing Agreements and commitments”, “provisions requiring all WTO members to safeguard the trade interests of developing countries”, and “special provisions for LDCs”.⁷⁰ This S&D provisions include “support to help developing countries build the capacity to carry out WTO work, handle disputes, and implement technical standards”, and “measures to increase trading opportunities for developing countries”.⁷¹ Also, in December 2013, a mechanism to analyse and review the implementation of S&D provisions was established by the Bali Ministerial Conference.⁷²

To sum up, the WTO Agreements are composed of elaborated, and lengthy legal texts as they regulate many different areas. The WTO makes these arrangements based on a few basic principles, and these rules apply to trade in goods, trade in services and TRIPS.

69 “Transparency” Online Course of Overview of the Basic Principles of the WTO, 2017, p. 50.

70 “Special and differential treatment provisions”, available at https://www.wto.org/english/tratop_e/devel_e/dev_special_differential_provisions_e.htm (Access on 20.02.2020)

71 Ibid.

72 WTO, Bali Ministerial Declaration adopted on 7 December 2013, “Monitoring Mechanism on Special and Differential Treatment”, WT/MIN(13)/45, available at https://www.wto.org/english/thewto_e/minist_e/mc9_e/bali_texts_combined_e.pdf (Access on 20.02.2020)

2.5. Exceptions to the Basic Rules of the WTO

A number of basic principles that form the basis of the Multilateral Trading System (MTS) are mentioned in the previous subchapter. However, in particular situations, WTO Members may deviate from the basic rules, provided that they comply with certain conditions. If WTO Members comply with the conditions, they may take measures to restrict trade. The main exceptions meeting these requirements are: “General Exceptions”, “Regional Trade Agreements”, “Other Exceptions”, “Trade Remedies, and Waivers”.

First of all, specific conditions regarding General Exceptions are written in Article XX of the GATT, and Article XIV of the GATS. For instance, WTO Members may take measures “necessary to protect human, animal or plant life or health”, or “relating to the conservation of exhaustible natural resources” to restrict trade.⁷³ The purpose of the General Exceptions is to allow WTO Members to adopt measures to achieve legitimate policy objectives, which includes the protection of public morals, and the maintenance of public order as well.

Secondly, Regional Trade Agreements (RTAs), which are reciprocal preferential trade agreements among the parties within a customs union or a free-trade area, offer each other more favorable treatment than the rest of the world (including WTO Members). At first glance, it may seem as if it conflicts with the principle of the MFN, one of the fundamental rules of the WTO. However, the WTO Agreements (Article XXIV of GATT and Article V of GATS) recognize RTAs, provided that it facilitates trade and does not threaten the multilateral trading system. In this way, it is expected that world trade will become more liberalized and obstacles to international trade will decrease. Therefore, it can be said that there is a liberal logic at the basis of RTAs. In the recent years, the number of RTAs, which may include trade in goods, and services, has increased notably, in illustrated in Figure 2.2. As of April 15, 2020, 303 RTAs are in force, and cumulative notifications of RTAs in force are 490.

⁷³ General Agreement on Tariffs and Trade, Article XX, Oct. 30, 1947, 61 Stat. A-11, 55 U.N.T.S. 194 [hereinafter GATT].

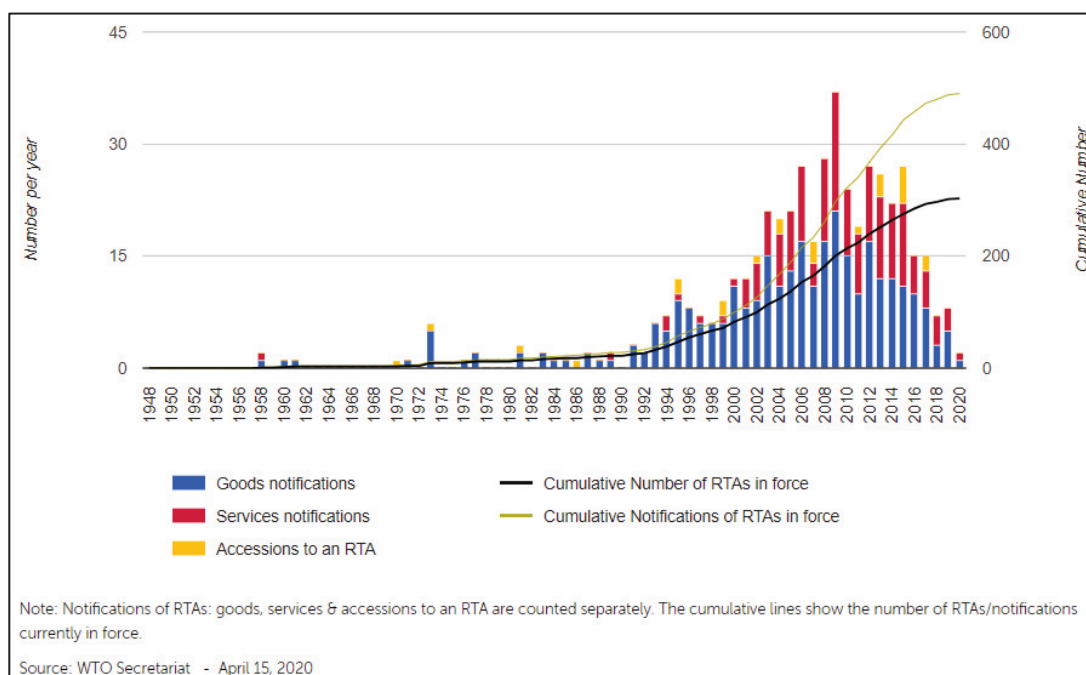


Figure 2-2. RTAs currently in force (by year of entry into force), 1948-2020⁷⁴

Thirdly, “other exceptions” under the GATT is another exception to the basic rules of the WTO. “Other exceptions” contain these three subheadings: “The Enabling Clause”, “Balance of Payments”, and “Security Exceptions”. To begin with, The Enabling Clause, which is officially named as “Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries”, was adopted on 28 November 1979. The Enabling Clause provides developed members to give differential and more favorable treatment to developing countries in many aspects. For example, preferential tariff treatment, i.e. zero or low duties on imports, to products originating in developing countries is confirmed by developed Members under the Generalized System of Preferences (GSP) within the framework of paragraph 2a of “the Enabling Clause”.⁷⁵ Furthermore, paragraph 2c of “the Enabling Clause” permits regional or global arrangements to decrease or elimination of tariffs among developing countries⁷⁶, by exempting from the MFN

⁷⁴ “Regional Trade Agreements Database”, available at <http://rtais.wto.org/UI/charts.aspx#> (access on 15.04.2020)

⁷⁵ WTO, Decision of 28 November 1979 (L/4903, BISD 26S/203), p. 191.

⁷⁶ Ibid.

principle. As a secondary branch of “other exceptions” is “Balance of Payments”, which is included in Articles XII and XVIII: B of the GATT, and Article XII of the GATS. WTO members experiencing difficulties in the balance of payments can apply import restrictions based on the Articles mentioned in the previous sentence. The last but not the least branch is “security exceptions”, which is referred to in Article XXI of the GATT, Article XIV bis of the GATS, and Article 73 of TRIPS. WTO Members may impose taxes on products which they consider important for their national security. For example, on 17 November 1975, Sweden introduced a global import quota system for certain footwear based within the framework of the “security exceptions”. Likewise, on 23 March 2018, the US President Donald Trump Administration imposed tariffs on steel (25%) and aluminum (10%) imported from the world except the EU, Canada, and Mexico (until June 1, 2018) and Argentina, Australia, Brazil and South Korea.

Fourthly, WTO Members have right to apply to Trade Remedies temporarily against unfair competition and increase in imports, which caused domestic industry to be damaged. These Trade Remedies are “anti-dumping measures” (Article VI of the GATT and the Anti-dumping Agreement), “subsidies and countervailing measures” (Article VI of the GATT and the Agreement on Subsidies and Countervailing Measures), and “safeguards measures” (Article XIX of the GATT and the Agreement on Safeguards).

Lastly, in exceptional cases, “waivers” are applied by WTO Members permitting a WTO Member not to comply with normal undertakings. Concerning as to regarding “waivers”, related provisions are written in Article IX of the WTO Agreement. Also, the exception “waivers” apply to the GATT, GATS, and the TRIPS Agreement.

In summary, besides the basic rules of WTO, which is an international organization, it includes exceptions related to these basic rules. WTO Members may deviate from these basic rules, provided that they follow the rules of the MTS set out in the WTO agreements. However, these exceptions are not implemented in a way that restricts international trade by introducing arbitrary practices among countries.

2.6. Approaches to the WTO System

A theory is a series of ideas that clarifies the complexity of the world and offer suggestions on how to define key forces and actors within it.⁷⁷ So, theories are like sunglasses with different-colored lenses; if you wear the blue pair, the world looks blue, whereas if you wear the yellow pair, the world looks yellow.⁷⁸ In other words, theories enable social realities to be viewed from different perspectives. In this section, two major theories of International Relations, realism and liberalism, are chosen as theoretical approaches and the WTO system will be examined through their contribution to the field of international organizations.

Before introducing the theoretical approaches advanced by the realists and liberals, the concepts of ‘international regimes’ and ‘international organizations’ need to be defined. Krasner defined regimes as “sets of implicit or explicit principles, norms, rules, and decision-making procedures around which actors' expectations converge in a given area of international relations”.⁷⁹ Reus-Smith states that international organizations, like the WTO, are physical entities which have head offices, staff, and letterheads.⁸⁰ When the two definitions are combined, the application of regime rules in the global sense takes place through international organizations. To concretize with the WTO example, the implementation of rules of multilateral trade regime (such as WTO Agreements) is provided by the WTO, an international organization.

77 Ian Hurd, *International organizations: politics, law, practice (6th Edition)*. Cambridge, UK: Cambridge University Press, 2014, p. 28.

78 John Baylis, Steve Smith, and Patricia Owens, *The Globalization of World Politics: An Introduction to International Relations (6th Edition)*. New York, N.Y.: Oxford University Press, 2014, p. 3.

79 Stephen D. Krasner, “Structural Causes and Regime Consequences: Regimes as Intervening Variables”, S. D. Krasner (ed.), *International Regimes*, Ithaca, N.Y.: Cornell University Press, 1983, p. 186.

80 Cristian Reus-Smit, “International Law”, Baylis, John, Steve Smith, and Patricia Owens, *The Globalization of World Politics: An Introduction to International Relations (6th Edition)*. New York, N.Y.: Oxford University Press, 2014, p. 275.

Realism and liberalism attempt to examine the international practices with reference to the aspects of power, behavior, and impact of the international organizations but they do not directly analyze the WTO. In other words, the two major theories provide us with theoretical framework to build a research structure about the WTO.

2.6.1. Realist Theory

Realism is one of the leading theories of international relations and it places great importance on the state, national interest, and power. However, it cannot be said that realism is a one-piece theory because realism is divided into many separate branches, from classical realists to neo-realists and even neoclassical realists. Nevertheless, the concepts of ‘statism’, ‘survival’ and ‘self-help’ are the three common shares of all realists.

To begin with the notion of ‘statism’, the state, which is the main actor in international relations, as “the monopoly of the legitimate use of physical force within a given territory”⁸¹ is accepted by realists as well. While there is a ‘hierarchy’ within the borders of the state, there is an ‘anarchy’ outside the boundaries of the state because there is no central authority to maintain order over the sovereign states. Therefore, it is very important for states to survive within an anarchic international system. Under anarchy, states need power to ensure their own survival. As Hans J. Morgenthau, a classical realist, states that “international politics, like all politics, is a struggle for power”.⁸² Moreover, ‘national interests’ are as important as power for the survival of states. Since states pursue their national interests, it is usual for states to face clash of interests in the international system, and war is always a possibility. States must ensure their own security through self-help, as there is no higher authority that can prevent war.

First of all, a question might be asked here: Can the WTO system be viewed from a classical realist perspective? When the answer to this question is analyzed

81 Max Weber, “Politics as a Vocation.”, Hans H. Gerth and Charles W. Mills (eds & transl) *From Max Weber: Essays in Sociology*, pp. 77-128, New York: Oxford University Press, 1946, p. 78.

82 Hans J. Morgenthau, *Politics Among Nations: The Struggle for Power and Peace*, New York: Alfred A. Knopf, Inc., 1948, p. 13.

historically, we have ‘The Peloponnesian War’ of Thucydides, ‘The Prince’ of Machiavelli and ‘Politics Among Nations’ of Morgenthau. That is, classical realist thinkers say that international politics is driven by human nature, which is fixed and selfish. Therefore, it is very difficult to say that classical realists have an explanatory approach to the WTO system.

Secondly, neo-realism or structural realism was developed by Kenneth Waltz, who is an author of the book called *Theory of International Politics* (1979). Neo-realists examine international politics through the structure of the international system rather than human nature. Also, Waltz applied to three components “ordering principle”, “differentiation of units”, and “distribution of capabilities” to define the structure of the international system. According to Waltz, the international structure emerges spontaneously as a result of the behavior of the states that follow their national interests. Realism already accepts 'insecurity' as one of the primary features of the international system. Due to the increase of inter-state insecurity, the inclination of a state to increase power makes other states anxious and they enhance their own power in response, and this is called the 'security dilemma'. Waltz elaborates this condition regarding to the parable of the ‘stag hunt’, said by Rousseau:

“Assume that five men who have acquired a rudimentary ability to speak and to understand each other happen to come together at a time when all of them suffer from hunger. The hunger of each will be satisfied by the fifth part of a stag, so they 'agree' to cooperate in a project to trap one. But also the hunger of any one of them will be satisfied by a hare, so, as a hare comes within reach, one of them grabs it. The defector obtains the means of satisfying his hunger but in doing so permits the stag to escape. His immediate interest prevails over consideration for his fellows.”⁸³

The example of 'stag hunt' in the above quote helps to comprehend the problem of coordination in the international system. For neo-realists, there are two obstacles to international cooperation: “cheating” and “the relative gains of other actors”.⁸⁴

83 Kenneth N. Waltz, *Man, the State and War*, New York: Columbia University Press, 1959, p. 167-8.

84 Steven L. Lamy, “Contemporary Mainstream Approaches: Neo-realism and Neo-liberalism”, John Baylis, Steve Smith, and Patricia Owens, *The Globalization of World Politics: An Introduction to International Relations (6th Edition)*. New York, N.Y.: Oxford University Press, 2014, p. 130.

Therefore, it is not easy to achieve coordination in the international system. On the one hand, the existence of international institutions and organizations are accepted by neo-realists, and it is acknowledged as tools of statecraft. On this topic, Joseph Grieco concentrated on the notions of 'relative gains' and 'absolute gains'. From the 'absolute gain' aspect, if international regimes and international institutions serve the interests of states, states work to establish them.⁸⁵ In terms of 'relative gains', states continue to support these regimes and institutions if the cooperative activities promoted by the same international regimes and international institutions do not provide unfair advantage to other states.⁸⁶ In other words, international organizations are seen as structures dominated by powerful states for realists or neo-realists, and it is claimed by realists that these organizations shape globalization in the interests of powerful states.

When the WTO system is viewed from a neo-realist point of view, three important points are remarkable. At first, as mentioned in the historical background, the foundations of the WTO system were laid in 1947 and 1948. As it is known, these years were post-World War II. The Allies have designed a new global order to prevent such a war from happening again. Therefore, the WTO is also an important part of this order. This international organization, whose number of members has increased continuously since its establishment, now has 164 members and the structure of the WTO system significantly affects the behavior of states to be explained in following sections). Secondly, in relation to the first one, neo-realism claims that the WTO system works in the interests of the great powers. For example, since the environmental, and food safety requirements, and sanitary and phytosanitary (SPS) standards in developed countries are high, neo-realists would claim that they may negatively affect the exports of developing countries. Lastly, the question "What did I get from this cooperation as a state?" is not asked by neo-realism because neo-realists have a more essential question: "Who gained more?". The criticisms of the US towards the WTO system are shaped on this basis. For instance, President Trump

⁸⁵ Ibid., p. 135.

⁸⁶ Ibid.

threatened to withdraw from the WTO, claiming that the WTO was being treated unfairly, and alleged on Fox News that they lost almost all cases in the WTO.⁸⁷

Thirdly, neoclassical realism, first introduced by Gideon Rose in 1998, emphasizes not only the international structure but also intra-state actors and state-society relationship, also says that the relative power distribution has an impact on the behavior of the state. In other words, neoclassical realists focus more on ‘micro-level analysis’ as a level of analysis rather than ‘systemic’, as neo-realists do. For example, state identity, threat perceptions of decision makers, and the impact of social actors and interest groups on foreign policy are crucial elements for neoclassical realists in assessing state behavior. For instance, the US approach to the DSB did not differ during the Obama and Trump Administrations, which came from two different political traditions, and even the approach towards this mechanism was continuous. This means that Obama and Trump have different identities but they have a similar policy on this issue, so neo-classicals cannot explain this situation even if they have many different variables on the table.

2.6.2. Liberal Theory

Liberalism, along with realism, is one of the dominant theories in the discipline of international relations. Liberalism generally attaches importance to individual liberty, limited state intervention, the rule of law, free trade, interdependence, international organizations, and cooperation. In the literature, liberalism is generally divided into the following four categories: Republican Liberalism, Commercial Liberalism, Sociological Liberalism, and Institutional Liberalism.

Before starting the categories of liberalism, it would be appropriate to mention the brief historical background. As it is known, Hobbes touches on a state of nature which is a state of war in his book called “Leviathan” and claims that the state has emerged in order to get rid of the state of war. While Hobbes addresses the emergence of the state through human nature, which is evil and selfish, and conflict, liberal theory evaluates the occurrence of the state through positive human nature and cooperation.

⁸⁷ “Trump threatens to pull US out of World Trade Organization”, available at <https://www.bbc.com/news/world-us-canada-45364150> (access on 15.04.2020)

In addition, liberals say that states do not act as ‘billiard-balls’⁸⁸ in the international system and that foreign policy cannot be separated from domestic policy, as realists claim. In the process of Enlightenment, Immanuel Kant and Jeremy Bentham are two important liberal philosophers. Kant stipulated three conditions for achieving 'Perpetual Peace': “1) The Civil Constitution of Every State shall be Republican, 2) The Right of Nations shall be based on a Federation of Free States, 3) Cosmopolitan Right shall be limited to Conditions of Universal Hospitality.”⁸⁹ At this point, the second article is especially important because it claims that international law can prevent the state of war. In addition, international law would provide a better understanding of international organizations in the coming years. Similarly, Bentham pointed out the power of law as he asserted, ‘between the interests of nations there is nowhere any real conflict’.

On the other hand, there were thinkers like Richard Cobden in the 19th century, who believed that free trade would create a more peaceful world order. Because it was believed that trade and mutual gains had an important effect on bringing states together. In the 20th century, Woodrow Wilson stated that peace can only be brought about through the establishment of international organizations to control international anarchy, and that there is a need for an international authority to manage international relations.⁹⁰ In 1972, it is also important to bear in mind that the centrality of other actors such as transnational corporations, interest groups and international non-governmental organizations were claimed by Robert Keohane and Joseph Nye.⁹¹

As it is mentioned in the introduction of this subchapter, there are four versions of liberalism in international relations discipline. To begin with ‘republican liberalism’, as Kant asserted in earlier, it argues that there is a relationship between internal characteristics of states and democratic peace. That is, democratic states are less prone to war with other democratic countries. Secondly, ‘commercial liberalism’

88 It is a kind of metaphor which described nation states as billiard-balls, defined by Arnold Wolfers. Also, these billiard-balls are the same, and there are only billiard-balls on the table.

89 Immanuel Kant, *“Political Writings”*, ed. Hans Reiss, Cambridge: Cambridge University Press, 1991, p. 99-105.

90 Tim Dunne, “Liberalism”, John Baylis, Steve Smith, and Patricia Owens, *The Globalization of World Politics: An Introduction to International Relations (6th Edition)*. New York, N.Y.: Oxford University Press, 2014, p. 117.

91 Ibid., p. 119.

advocates that international trade provides international peace, as it establishes interdependent relations. Thus, free trade and free market economy contribute to the international order. Thirdly, ‘sociological liberalism’ argues that International Relations is not only about state-state relations, it is also about transnational relations. In contrast to the ‘billiard ball’ metaphor of realists, sociological liberals use the ‘cobweb’ metaphor, which includes lots of interactions between non-governmental organizations (NGOs) and non-state actors. In brief, although these three types of liberalism make important contributions to contemporary International Relations, it is difficult to say that they have enough tools to explain the WTO system.

Lastly, in the academic world, neo-liberal often refers to neo-liberal institutionalism or what the authors in this theoretical domain call institutional theory.⁹² On the one hand, Steven L. Lamy states that neo-liberalism has a different meaning in the world of politics because a neo-liberal foreign policy promotes free trade or open markets and Western democratic values and institutions.⁹³ Neo-liberal institutionalism has emerged as theoretical approach against neo-realism, and neo-liberals assert that cooperation may be possible even within the anarchic international order.⁹⁴ Although Keohane asserted that neo-liberal institutionalism borrows equally from liberalism and realism, neo-liberals concentrate on topics like cooperation, institutions, and international political economy. In fact, neo-liberals accept most of the neo-realists’ assumptions, but neo-liberals look at the world differently. For example, ‘institutions’ are seen by neo-liberal institutionalists as the mediator and the means to achieve cooperation among actors in the system.⁹⁵ In addition to this, issues of global governance and the creation and maintenance of institutions related to

92 Steven L. Lamy, “Contemporary Mainstream Approaches: Neo-realism and Neo-liberalism”, Baylis, John, Steve Smith, and Patricia Owens, *The Globalization of World Politics: An Introduction to International Relations (6th Edition)*. New York, N.Y.: Oxford University Press, 2014, p. 275.

93 Ibid, p. 275.

94 Tarık Oğuzlu, “Liberalizm”, Ali Balcı ve Şaban Kardaş (ed.) *Uluslararası İlişkilere Giriş*, İstanbul, Küre Yayınları, 2018, s. 147.

95 Steven L. Lamy, “Contemporary Mainstream Approaches: Neo-realism and Neo-liberalism”, p. 132.

managing globalization processes are the focal points of neo-liberal institutionalists' research in the current situation.⁹⁶

According to neo-liberal institutionalists, states, always seeking to maximize their interests, are fundamental actors in international relations, but there are not only states on the table. In conjunction with the acceleration of the globalization process, transnational companies, non-governmental organizations, and interest groups are now on the scene. In this international environment, states give importance to absolute gains by cooperating. Indeed, cooperation is never without problems, but if institutions are considered as mutually beneficial and provide increased opportunities for states to secure their international interests, states show loyalty and shift resources to these institutions.⁹⁷

In the liberal tradition, the imagination of international organizations as contracts has been popular among academics of International Relations.⁹⁸ When it is looked at the WTO system from a neo-liberal point of view, firstly, it can be clearly said that the GATT 1947 and Marrakesh Agreement Establishing the World Trade Organization are contracts signed by “contracting parties” and Members. Countries that are parties to these contracts are committing to abide by the rules in the agreements, and the MTS is shaped within the framework of these rules. Thanks to the existence and application of international law, international organizations can determine the international behavior of states. In this way, the common interests of the parties are protected and even the LDCs benefit from this situation. For example, the WTO provides technical assistance to the acceding governments to cope with the challenges of the integration to MTS. In addition, the position of LDCs is acknowledged by the WTO Members, and other WTO Members apply special and differential treatments (S&D) to developing countries and LDCs. This S&D provisions includes many trading opportunities like lower import barriers, flexibility to use of economic and commercial policy instruments and longer transition time to comply with Agreements. Secondly, neo-liberals claim that international

96 Ibid.

97 Ibid., p. 133.

98 Ian Hurd, *International organizations: politics, law, practice (6th Edition)*. Cambridge, UK: Cambridge University Press, 2014, p. 31.

organizations can affect the foreign policies of countries with various globalization concepts such as complex interdependence. Decision-making system in the WTO is one of the best examples of this issue. In contrast to weighted voting systems of the IMF and the World Bank, the WTO has one-member-one-vote system, and decisions are taken by consensus. Therefore, the WTO system has paved the way for developing countries to increase their bargaining power by establishing coalitions. The adoption of agriculture and textile reform by developed countries is one of the consequences of this bargaining power of developing countries.

As a result, liberals claim that states can increase their absolute gains (as an explanatory factor for liberalism) through cooperation. For example, the countries that make joint declarations and common statements consider that they can increase their mutual benefits through cooperation.

CHAPTER 3

WTO REFORMATION

The criticism of countries from different categories regarding the WTO, which is the main international organization of the multilateral trading system, has increased over time and reform proposals have been submitted to change various aspects of the WTO system. In this chapter, first of all, the concept of 'reform' will be highlighted, and a research question will be raised as follows: Does the WTO system need reform? If there is a need for WTO reform, the reasons for this will also be examined under headings.

In addition, the positions of the US, the EU, China, Ottawa Group, and other developing countries, including their views and recommendations on WTO reform, will be analyzed under this chapter as well. Finally, WTO reform will be explained through two mainstream international relations theory.

3.1. What is Reform?

Concepts are important for a better understanding of the issues because the concepts are like the first step to reach the top of the ladder. Therefore, it is useful to explain the concepts before evaluating a subject. The concept of reform is defined in the dictionary as follows: "a change that is intended to correct a situation that is wrong or unfair, or make a system work more effectively".⁹⁹ Cambridge Dictionary described reform as "an improvement, especially in a person's behavior or in the structure of something".¹⁰⁰ To combine these two explanations, we can redefine reform as a change in its structure to make the system work better.

Moreover, there is also the concept of 'structural reform' and it has a broader meaning than the word 'reform'. Mahfi Eğılmez defines structural reform as the restructuring of a system so that it can work more efficiently and become more

99 "Reform", available at https://www.macmillandictionary.com/dictionary/british/reform_1 (access on 20.04.2020)

100 "Reform", available at <https://dictionary.cambridge.org/dictionary/english/reform> (access on 20.04.2020)

resistant to shocks.¹⁰¹ Nevertheless, what is important here is not the dictionary meaning of reform but the intersubjective meaning of reform in the WTO context.

3.2. Why Does the WTO System Need Reform?

Since the establishment of the GATT in 1947, barriers to free trade have been lifted step by step over time and customs duties have been reduced considerably. During this period, the number of Members reached 164 as of May 2020 and the demands of the Members increased by diversifying. As it can be seen in the next subheading, the share of developing countries in world trade volume has increased, which has caused them to raise their voices stronger against developed countries.

Today, MTS is faced with the biggest challenges it has seen since WWII, and there are several reasons for this. Firstly, the changing international system is one of the best examples of this topic. After World War II, the concept of the bipolar world has been increasingly replaced by the ‘multipolar world order’ since the 1990s. Therefore, difficulties have emerged in global governance.

Secondly, ‘developing country status’ is one of the prominent issues in the WTO. Since there is no universally accepted definition of ‘developed country’ and ‘developing country status’, Members can determine their own positions according to self-determination in the WTO. This provides significant advantages to developing countries, which make up two thirds of the WTO Members, within the multilateral trading system.

Thirdly, the Dispute Settlement Mechanism is another controversial issue in recent years. As of mid-2017, the number of members of the Appellate Body has dropped to three, as the United States blocks the election of new members to the Appellate Body consisting of seven members and the existing members' extension of term of office. On December 11, 2019, only Mr. Hong Zhao remained a member of the Appellate Body. This means that the Appellate Body does not have a minimum number of members to review new appeals against panel decisions. Therefore, the Appellate Body, which listens and resolves international trade disputes, has become dysfunctional.

101 Mahfi Eğilmez, *Türkiye Ekonomisi*, İstanbul: Remzi Kitabevi, 2019, p. 105.

Fourthly, in the second chapter, it was stated and explained that the voting system of the WTO is more equitable than the IMF and the World Bank. Because there is a one-member-one-vote system in the WTO and this actually gives great voting power to the developing countries, which make up two thirds of the WTO. This question is important at this point: Do developing countries use this power? In response to this question, it can be said as "no" because developing countries that experience difficulties in participation and representation are adversely affected by paragraph 1 of Article IX of the WTO Agreement (to be discussed in detail in Chapter 3.2.4.).

Fifthly, transparency, which is one of the fundamental rules of the WTO, has a systemic importance because it enables the WTO Members to monitor their decisions on issues concerning the MTS. One of the most essential ways to ensure transparency is notification requirements. Some countries do not comply with these transparency and notification obligations, but they cannot be punished because of the consensus practice. Specific Members, including China, have benefited from this general stalemate in the WTO and continue to protect discriminatory barriers to imports, intervene in markets to support state-owned initiatives, and fail to report subsidies to the WTO correctly.¹⁰² Therefore, this situation reveals uncertainties in international trade for other WTO members, and these uncertainties are also criticized by NGOs.

Sixthly, WTO Members have the right to grant preferential treatment to their trading partners within a free trade area or a customs union, without having to extend such better treatment to other WTO Members, subject to certain conditions.¹⁰³ Regional Trade Agreements, which are one of the general exceptions to the WTO's basic rules, and written in Article XXIV of GATT, have been widely accepted by countries over time and pose difficulties for international trade. In addition, rules not regulated by WTO legislation may be the subjects of RTAs and create conflicts in the multilateral trading system.

102 "WTO Reform: The Beginning of the End or the End of the Beginning?", available at <https://www.csis.org/analysis/wto-reform-beginning-end-or-end-beginning> (access on 25.04.2020)

103 "Regional Trade Agreements: Customs Unions and Free Trade Areas?" Online Course of Exceptions to the Basic Principles of the WTO, 2017, p. 13.

To sum up, there is no doubt that the WTO needs reform and the important issues related to the causes of this reform are listed above. Bradford and Linn from the Brookings Institution stated that in their report titled “Reform of Global Governance: Priorities for Action”, which is written in 2007, there are four goals in creating legitimate global institutions and listed as follows:

“First, the institutions must be *representative*. Second, the institutions need to be *effective*. Third, collectively the international institutions need to serve as an effective global governance *system*. Finally, the international institutions should offer opportunities for national and international *leaders* to forge coalitions for action and reform.”¹⁰⁴

When the current WTO system is considered with this quote, it can easily be said that the WTO system has difficulty in achieving the above-mentioned objectives.

3.2.1. Changing International System

As it was mentioned in the second chapter, the international economic system was shaped on three pillars after the Bretton Woods Conference. Firstly, the International Bank for Reconstruction and Development (or the World Bank) was created to invest money in the reconstruction of Europe, which was destroyed by the Second World War. Secondly, the main aim of the IMF is to guarantee the stability of the international monetary system - the exchange rates and international payments system that facilitates countries (and their citizens) to transact with each other.¹⁰⁵ Lastly, GATT was a treaty organization that aimed to decrease import taxes or customs duties over time, thereby reducing barriers to trade among member states¹⁰⁶ (actually "contracting parties").

104 Colin I. Bradford and Johannes F. Linn, “Reform of Global Governance: Priorities for Action”, available at <https://www.brookings.edu/research/reform-of-global-governance-priorities-for-action/> (access on 27.04.2020)

105 “The IMF at a Glance”, available at <https://www.imf.org/en/About> (access on 28.04.2020)

106 John Rapley, *Understanding Development: Theory and practice in the Third World* (3rd Edition), Colo: Lynne Rienner Publishers, 2007, p. 14.

John Ruggie called as ‘embedded liberalism’ to Rapley’s claim, which includes these three institutions, which are based on the understanding of free trade but allow state intervention in the market to support national security and national and global stability.¹⁰⁷ As it is known, these three institutions had a liberal logic and formed the basis of the new economic order. In addition, Evans and Thomas asserted that a small group of developed Western states were supported by the decision-making procedures of these international economic institutions.¹⁰⁸

As it is known in the post-war period, there was a cold war between the Western Block and the Eastern Block. The dissolution of the Union of Soviet Socialist Republics (USSR), which began with the Revolutions of 1989, ended with the final lowering of the red flag in the Kremlin on December 26, 1991. Thus, an important period in history has ended and the neo-liberal economic model has become the dominant understanding in the world.

The ‘embedded liberalism’ of post-war decades was replaced by pure neoclassical economic policies that favored a minimalist state and an advanced role for the market: the Washington Consensus.¹⁰⁹ In fact, the Washington Consensus is the liberalization of trade, finance and investment in developing countries in line with economic policy recommendations agreed by the World Bank, IMF and the U.S. Department of the Treasury. These set of policies, which has been meticulously outlined by Dani Rodrik as 'stabilize, privatize and liberalize', was attributed to John Williamson, who proposed ten specific economic policies to reform developing countries in 1989.¹¹⁰ The understanding brought about by this consensus in the 1990s continued with a little change in shape.

107 Tony Evans and Caroline Thomas, “Poverty, development, and hunger”, Baylis, John, Steve Smith, and Patricia Owens, *The Globalization of World Politics: An Introduction to International Relations (6th Edition)*. New York, N.Y.: Oxford University Press, 2014, p. 434-5.

108 Ibid., p. 435.

109 Ibid., p. 436.

110 John Williamson, “What Washington Means by Policy Reform?” in John Williamson, editor. Chapter 2 from *Latin American Adjustment: How Much Has Happened?* Washington, DC: Institute for International Economics, 1990 for original version, and Dani Rodrik & World Bank. “Goodbye Washington Consensus, Hello Washington Confusion? A Review of the World Bank's ‘Economic Growth in the 1990s: Learning from a Decade of Reform.’” *Journal of Economic Literature*, vol. 44, no. 4, 2006, pp. 973–987. JSTOR, www.jstor.org/stable/30032391. (accessed on 20 May 2020) for interpretation of the effect of the Consensus.

After this brief history after the Second World War, it would be appropriate to look at macroeconomic indicators to comprehend the changes in the international system. For this, 1971 was taken as the base year because the category of the LDC was established by the United Nations General Assembly resolution 2768 (XXVI) of November 18, 1971.¹¹¹

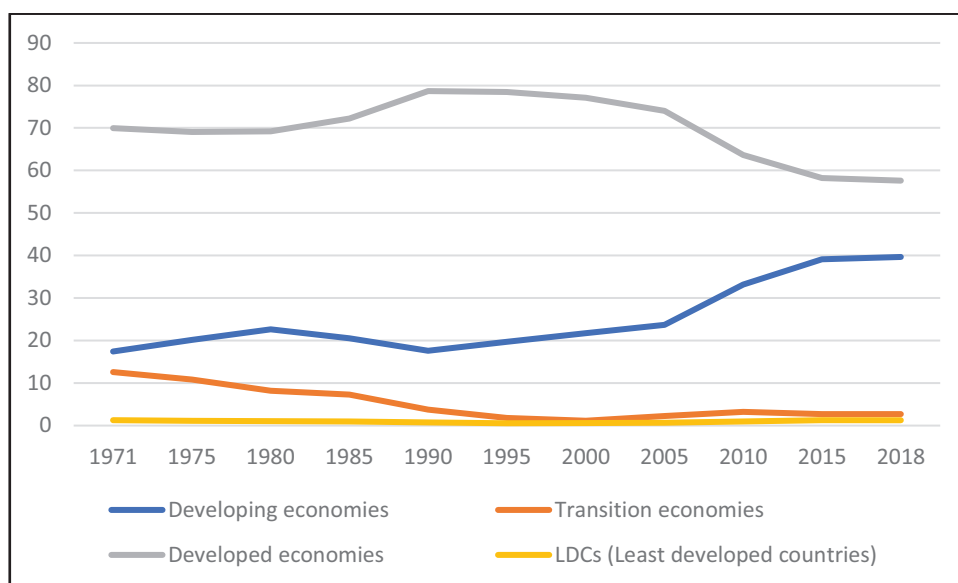


Figure 3-1. Percentage of total GDP for developing, developed, transition, and LDCs, 1971-2018¹¹²

In Figure 3.1, the shares of developed economies, developing economies, transition economies and LDCs in total global GDP is shown from 1971 to 2018. It is understood from the figure, the share of developed countries in the total GDP has decreased from 78% to 57% especially after 1995. In contrast to developed countries, the share of developing countries in the total GDP increased from 19% to 39% after the year of 1995. However, there was no significant change in the share of LDCs. On the other hand, since the impact of transition economies has decreased significantly over the years, these will not be included in the next figures.

111 UN, Handbook on the Least Developed Country Category: Inclusion, Graduation and Special Support Measures, United Nations Publications 2018, p. 1-2.

112 Percentage of total GDP for developing, developed, transition, and LDCs, 1971-2018
Source: UNCTAD Stats

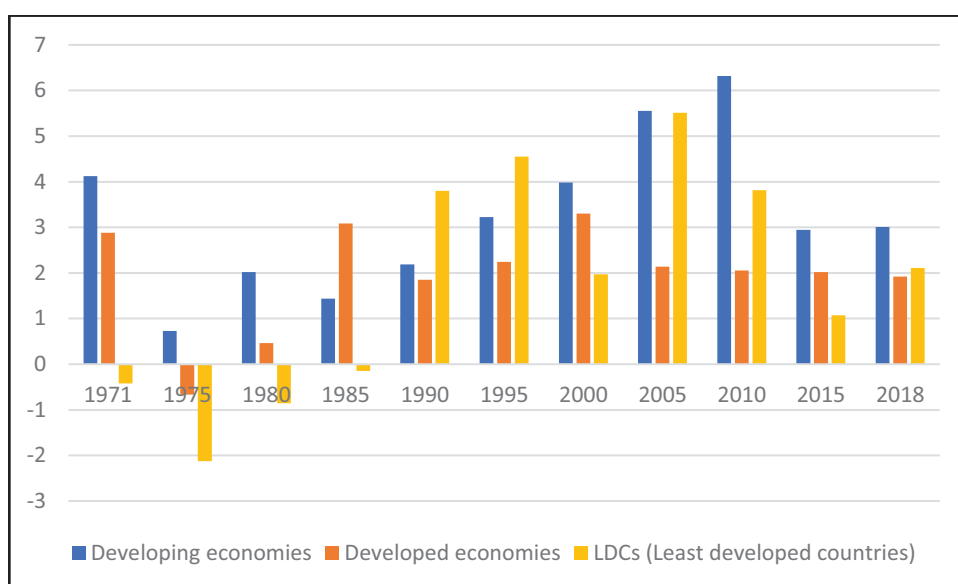


Figure 3-2. Annual average growth rates per capita for selected countries and economies, 1971-2018¹¹³

Secondly, between 1971 and 2018, the average annual growth rates per capita of the country groups selected are shown in Figure 3.2. It is perceived that the average annual growth rate per capita of developing countries since 1990 is higher than that of developed countries. When it is looked at the data of the LDCs, it is noticed that it has a fluctuating average annual growth rates per capita.

Thirdly, the distribution of exports of goods and services from the country groups in international trade shows a picture of the shifts in the international system. Between 1971 and 2018, it is seen developed economies, developing economies and LDCs' share in world exports of goods in Figure 3.3. As shown in this figure, in 1971, developed economies' share of world goods exports (US\$ 0.27 trillion) was 76.2 per cent (US\$ 0.35 trillion), while exports from developing economies (US\$ 0.06 trillion) was 19.3 per cent. In 2018, the share of developed economies in world merchandise exports (US\$ 10.1 trillion) fell to 52 percent (US\$ 19.4 trillion), while exports from developing economies (US\$ 8.6 trillion) increased to 44.4 percent. When the values of LDCs are examined, their share in world merchandise exports has decreased from 1.54 per cent in 1971 (US\$ 0.06 billion) to 0.98 per cent in 2018 (US\$ 0.19 billion).

¹¹³ Annual average growth rates per capita for selected countries and economies, 1971-2018 (Growth rates are based on GDP at constant 2015 US dollars.)
Source: UNCTAD Stats

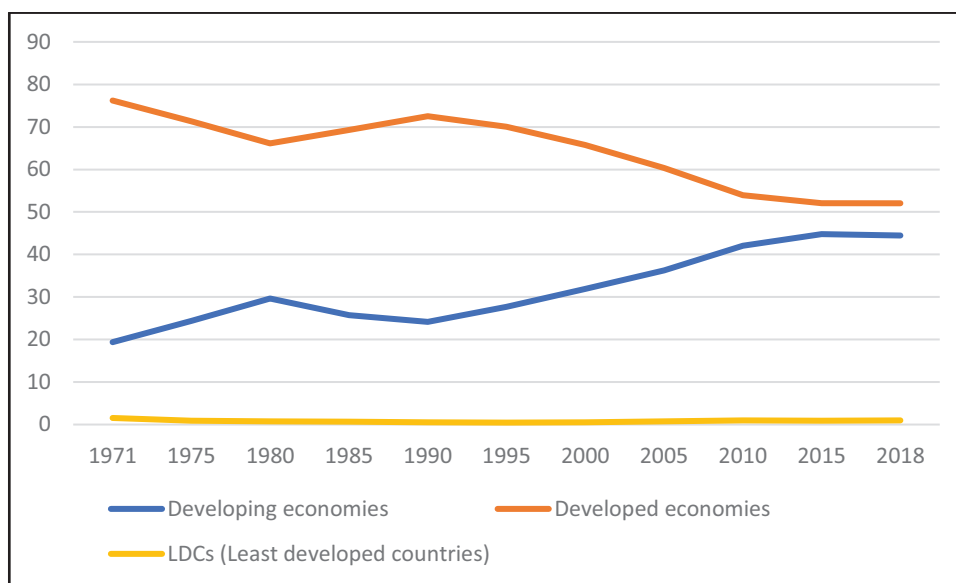


Figure 3-3. Share of selected countries in world exports of goods, 1971-2018¹¹⁴

Lastly, it would be useful to mention “trade in services”, which has become increasingly important in recent years, as well as global goods exports. As can be seen in Figure 3.4., between 2005 and 2018, the share of trade in service in total trade increased from 20.7% to 23.3%.

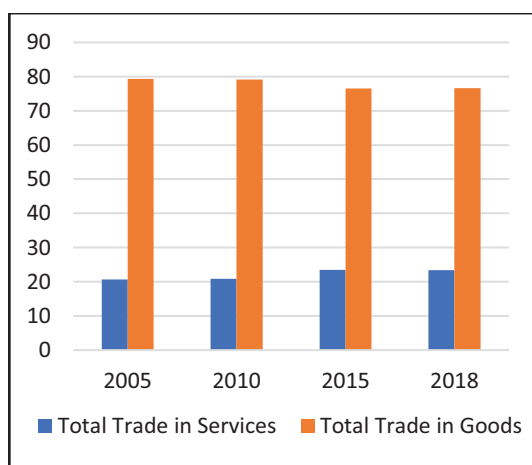


Figure 3-4.¹¹⁵

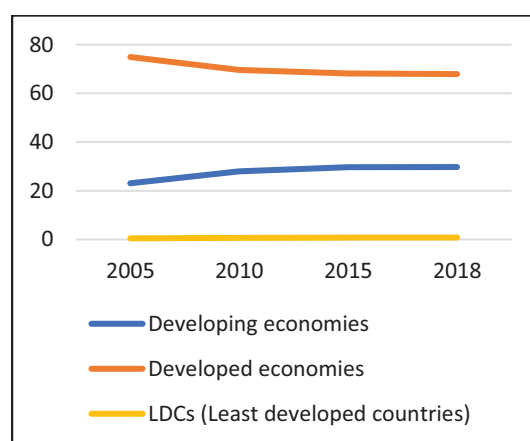


Figure 3-5.¹¹⁶

114 Share of selected countries in world exports of goods, 1971-2018
Source: UNCTAD Stats

115 Share of trade in services and goods within total global exports, 2005-2018
Source: UNCTAD Stats

116 Share of selected country groups in world exports of services, 2005-2018

When it is looked at 2018, which is the share of trade in services in total global trade was 23.3%, Figure 3.5. shows that developed economies' share of world exports of services (US\$ 3.9 trillion) is 67.9 per cent (US\$ 5.7 trillion), while exports from developing countries (US\$ 1.7 trillion) is 29.7 per cent. When the economic values of LDCs are analyzed, between 2005 and 2018, their percentage in world exports of services has slightly increased from 0.45% in 2005 (US\$ 0.01 trillion) to 0.78% in 2018 (US\$ 0.04 trillion).

In the light of the data prepared, it can be clearly said that there have been important changes in the international system in the context of four macroeconomic indicators from 1971 to 2018. When the shares of developed countries, developing countries and LDCs in the total GDP are analyzed, it is observed that the developing countries has raised their shares significantly, especially after 1995, which was the date of establishment of the WTO. Moreover, when it looked at the figures of annual average growth rates per capita for developed countries, developing countries, and LDCs and share of these countries in world exports of goods, it is understood that the rates of developing countries has increased remarkably and the values of developing countries have been above those of developed countries especially since 1990s. In trade in services, which is a new area compared to the other three macroeconomic indicators, since 2005, the share of trade in services has increased relatively in total trade and the share of developing countries in trade in services has advanced slightly. On the other hand, it is very difficult to say that there is a noticeable improvement for LDCs within the time interval specified in the figures and within the context of the prepared values.

To sum up, current international system differs from the international system established in a three-legged form after the Second World War, or from 1971, when the definition of the least developed country was adopted. In fact, today's international system is not even like the international system at the time of the WTO's establishment. Within this time period, many countries gained independence and the number of WTO members increased; as a result, problems between developed countries, developing countries and LDCs have increased. For example, the Third Ministerial Conference WTO, which lasted from November 30 to December 3, 1999 in Seattle, is one of the best cases in terms of demonstrating conflict of interests

between developed countries and developing countries. Therefore, the existing WTO system needs to make positive efforts, as stated by the WTO Agreement, for developing countries and especially LDCs, which make up more than three-quarters of the WTO members, in growing international trade.

3.2.2. Description of ‘developing countries’

In social sciences, concepts and classifications are very important to understand and explain events and facts. Development is one of these concepts and in fact, country classifications differ according to the definition of concept of development, made by international organizations. For example, various development taxonomies have established by the United Nations Development Programme (UNDP), the World Bank and the IMF to classify countries.

It would be appropriate to look at the country classification systems of the international organizations briefly, which mentioned above. Firstly, UNDP's country classification system is based on the Human Development Index (HDI). As a classification system, the HDI is a unified index of three indices that measure the success of countries in education, longevity, and income. This index evaluates countries in the following four groups: “1) Very high human development, 2) High human development, 3) Medium human development, 4) Low human development.”¹¹⁷ Secondly, the World Bank divides countries into four groups according to Gross National Income (GNI) per capita (current US \$) and the classification threshold: “1) High income, 2) Upper-middle income, 3) Lower-middle income, 4) Lower income.”¹¹⁸ Thirdly, according to the World Economic Outlook (WEO) prepared by the IMF staff, the country classification of the IMF is not based upon strict criteria.¹¹⁹

117 “Table 2: Human Development Index trends, 1990-2018”, available at <http://hdr.undp.org/en/content/table-2-human-development-index-trends-1990%E2%80%932018> (access on 02.05.2020)

118 “New country classifications by income level: 2019-2020”, available at <https://blogs.worldbank.org/opendata/new-country-classifications-income-level-2019-2020> (access on 02.05.2020)

119 International Monetary Fund. 2018. *World Economic Outlook: Growth Slowdown, Precarious Recovery*. Washington, DC, April, p. 134.

The WEO divides countries into two major categories: 1) Advanced economies and 2) Emerging market and developing economies.

When the country classification of the WTO is examined, it is seen that the WTO members are evaluated in two main groups: 1) Developed countries and 2) Developing countries. However, there are no agreed definitions of “developed” member or “developing” member in the WTO. Members can determine their own positions according to the principle of self-determination in the WTO.¹²⁰ On the other hand, other Members can challenge to the decision of a Member to be considered as a developing Member.¹²¹

Developing countries constitute approximately two-thirds of the WTO membership, and some of the developing countries are considered the LDCs. This classification in the WTO is of great importance since the status of the developing country in the MTS provides crucial advantages to the developing members. These benefits for developing countries are as follows: Longer time to implement their obligations, trading opportunities (e.g. in textiles and services), safeguard measures, and various means of helping (e.g. technical standards).¹²² That is, a special treatment is applied to developing countries. In this way, besides the advantages listed above, there are exceptions such as applying tariff reductions to developing countries. Thus, developing countries can offer their goods and services to foreign markets within MTS at a lower cost. Thanks to the status of the developing country, the countries in this position gain serious price advantages in the global competitive environment.

Is the People's Republic of China (hereinafter referred to as China) a truly developing country? In fact, this question is one of the points that form the heart of the reform debates in the WTO. In an interview with Bloomberg News on August 30, 2018, President Trump said: “If they don't shape up, I would withdraw from the WTO” and added that the agreement establishing the body “was the worst trade deal ever

120 “The WTO and the Multilateral Trading System,” Online Course of Introduction to the WTO, 2017, p. 5.

121 Ibid.

122 “Understanding the WTO: Developing Countries”, available at https://www.wto.org/english/thewto_e/whatis_e/tif_e/dev1_e.htm (access on 05.05.2020)

made”.¹²³ At this point, a question comes to mind: What is one of the reasons why President Trump thinks so? In response to this, President Trump criticizes and opposes the evaluation of many industrialized countries as "developing countries" in the WTO system. Regarding this issue, on January 22, 2020, President Trump made the following statement in Davos, Switzerland:

“I’ve had a dispute running with them for quite a while, because our country hasn’t been treated fairly. China is viewed as a developing nation. India is viewed as a developing nation. We’re not viewed a developing nation. As far as I’m concerned, we’re a developing nation, too. But they got tremendous advantages by the fact that they were considered “developing” and we weren’t. And they shouldn’t be. But if they are, we are. And we’re talking about a whole new structure for the deal, or we’ll have to do something.”¹²⁴

In the light of the above information and for the claims of the US, it would be useful to add a new variable to the figures in Chapter 3.2.1 to better evaluate China within the changing international system. Firstly, between 1971 and 2018, it is examined the influence of China on the percentages of developed economies, developing economies, transition economies and LDCs in the total global GDP in the Figure 3.6. As can be understood from this figure, the share of developing countries in total GDP increased from 19% to 39% since 1995. When this increase of developing countries is analyzed in more detail, it is seen that China has contributed positively to the share of developing countries from the total world GDP since 2001, when China became a member of the WTO. When the share distribution in 2018 is analyzed, it is comprehended that developing countries account for 39.6% of the total global GDP, but when China is excluded, this rate decreases to 23.7%. From this point of view, China, which is a developing country, is seen as a "threat" for the United States because China increases its share in the total global GDP by using the advantages of this status.

123 “Trump Threatens to Pull U.S. Out of WTO If It Doesn’t ‘Shape Up’”, available at <https://www.bloomberg.com/news/articles/2018-08-30/trump-says-he-will-pull-u-s-out-of-wto-if-they-don-t-shape-up> (Access on 07.05.2020)

124 “Remarks by President Trump in Press Conference | Davos, Switzerland”, available at <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-press-conference-davos-switzerland/> (Access on 08.05.2020)

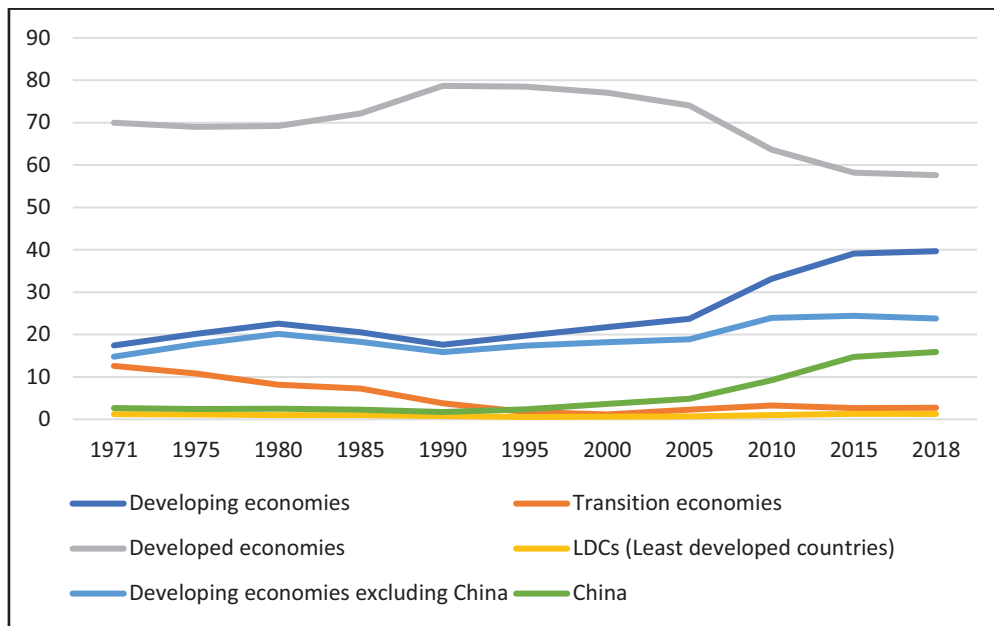


Figure 3-6.¹²⁵

Secondly, between 1971 and 2018, the annual average growth rates per capita for selected countries and economies, China, and developing economies excluding China are seen in Figure 3.7. As stated in Figure 3.2, it is understood that the average annual growth rate per capita of developing countries is higher than the average annual growth rate of developed countries per capita since 1990. When it is viewed from this time frame, China has a significant impact on the average annual growth rate per capita of developing countries. In this figure, two issues are remarkable. The distributions in 2005 and 2010 show that the rates of developing countries, even when China is excluded, are above those of developed countries. In other words, other developing countries have advanced in this area as well. Another point is the fact that the shares of developing countries fell more than 50 per cent when China is not included, as can be seen from the distributions in 2015 and 2018. In this respect, it can be said that China continues to be perceived as a "threat" in the eyes of the United States.

¹²⁵ Percentage of total GDP for developing, developed, transition, LDCs, China, and developing economies excluding China, 1971-2018.
Source: UNCTAD Stats

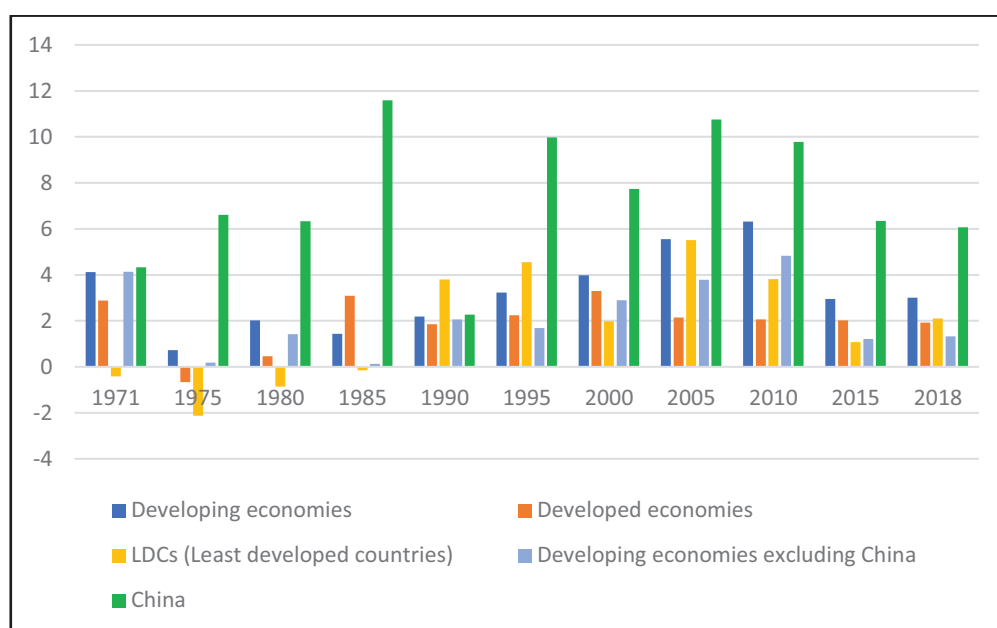


Figure 3-7.¹²⁶

Thirdly, as it is known from Figure 3.3, in 1971, while the share of developing economies in world exports of goods was 19.3 per cent (US\$ 0.06 trillion), the share of these economies in world exports of goods increased to 44.4 per cent (US\$ 8.6 trillion) in 2018. In this figure, it would be appropriate to focus on the composition within the developing countries. As shown in Figure 3.8, it is seen the share of developed economies, developing economies, LDCs, China, developing economies excluding China in world exports of goods between 1971 and 2018. In this context, when the data related to China are examined closely, it is seen that China does not have a significant effect among the developing countries group from 1971 to 1990. It can be said that there has been some increase in the values of China from 1990 to 2001, but China could not hold a significant share in the global exports of goods in this period. Since 2001, when China became a member of the WTO, China has been giving life for developing countries, whose share in global exports of goods remained stable around 30 per cent. For example, when the share distribution in 2018 is analyzed, it is understood that developing countries account for 44.4% of global exports of goods, but when China was excluded, this rate decreases to 31.7%. In this

¹²⁶ Annual average growth rates per capita for selected countries and economies, China, and developing economies excluding China, 1971-2018.
Source: UNCTAD Stats

regard, the importance of China for the United States has once more become prominent since 2001.

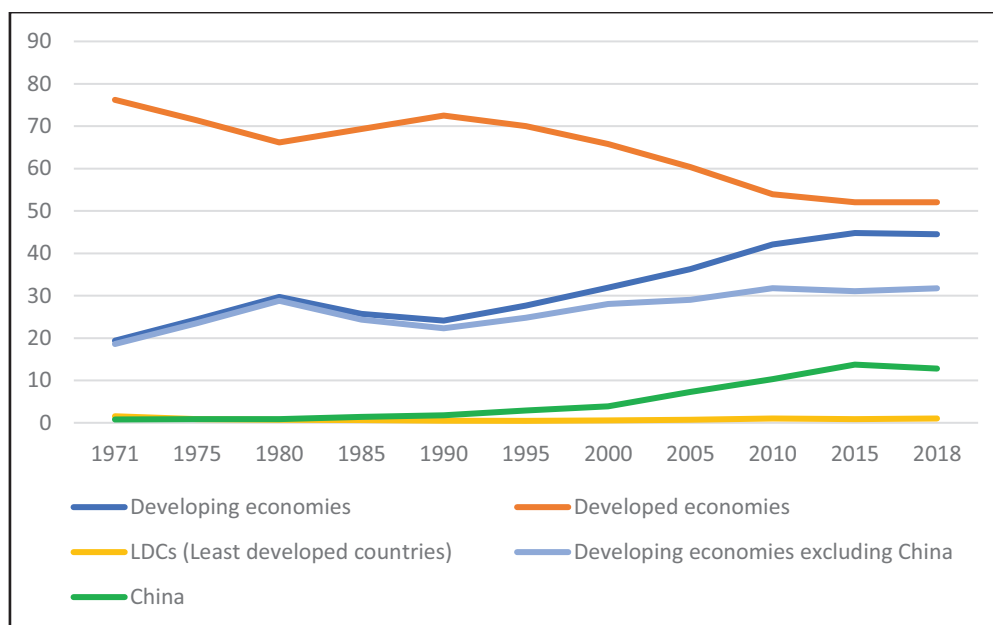


Figure 3-8¹²⁷

Lastly, it is shown in Figure 3.4 that the share of service trade in total trade increased from 20.7% to 23.3% between 2005 and 2018. Figure 3.5 presents the distribution of country groups, which are components of world exports of services. As in the previous figures, it would be more logical to add the Chinese factor to these selected country groups to evaluate the importance of China. Therefore, looking at Figure 3.9, it is difficult to say that there is a significant change between 2005 and 2018 in terms of the shares of the selected country groups. For example, LDCs' share of global exports of services has risen slightly from 0.45 per cent in 2005 to 0.78 per cent in 2018. In 2005, developing countries' share of world exports of services (US\$ 0.6 trillion) was 23 per cent, while exports from China (US\$ 0.07 trillion) was 2.95 per cent. In 2018, the share of developing countries in global exports of services (US\$ 1.7 trillion) was 29.7 per cent, while exports from China (US\$ 0.2 trillion) was 4.56 per cent.

¹²⁷ Share of selected country groups, China, and developing economies excluding China in world exports of goods, 1971-2018.
Source: UNCTAD Stats

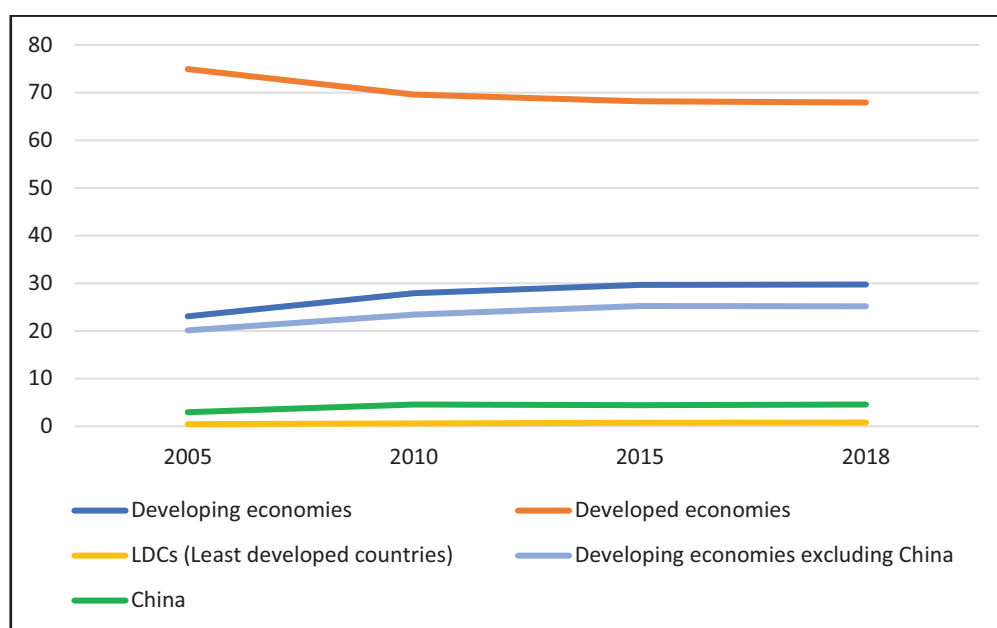


Figure 3-9¹²⁸

At first glance, in the light of the above information, it is seen that the shares of the selected country groups in percentage have not changed significantly over time, but when these values are considered in quantity, substantial results are obtained from the data derived from Figure 3.9. For instance, based on the increase in quantity between 2005 and 2018, it was calculated that there was a 99.3% increase in developed countries, a 183.4% increase in developing countries, a 281% increase in LDCs and a 240% increase in China. Accordingly, the Chinese rise, which is not immediately noticeable in this indicator, once again appeared as if it supported the United States' claim.

In conclusion, “developing country status”, one of the prominent issues in WTO, has been tried to be examined in this subchapter. As it is known, since there is no universally accepted definition of "developed country" and "developing country situation", Members can determine their own positions according to the principle of self-determination in the WTO. In the context of this rule, a short data study was conducted based on four macroeconomic indicators. In addition, China has also been

128 Share of selected country groups, China, and developing economies excluding China in world exports of services, 2005-2018.

Source: UNCTAD Stats

evaluated as an important factor, and it has concluded that China benefits from the advantages of being in developing country status.

3.2.3. Dispute Settlement Body

As one of the crucial outputs of Uruguay Rounds, the dispute settlement mechanism is one of the cornerstones of the MTS, and this mechanism enables the rule-based trading system to work more effectively. The resolution of disputes in the WTO is given to the responsibility of the DSB. As it could be remembered from Chapter 2.2, how the dispute settlement mechanism works was explained, so it would be more reasonable to switch to the Appellate Body, the most important pillar of this process.

When it is examined the Agreement on Rules and Procedures Governing the Settlement of Disputes (DSU), the Appellate Body was established in 1995 pursuant to Article XVII of this Agreement. Appeals from panel cases in disputes are heard by a standing Appellate Body (AB), which is established by the DSB.¹²⁹ The AB can support, amend or reverse the legal findings and conclusions of a panel, and the reports of this body must be accepted by the parties to the dispute after it has been adopted by the DSB.¹³⁰ In other words, the "losing" party has to bring its measure into line with the WTO Agreements.¹³¹ If it is not possible for the "losing" party to apply it immediately, a reasonable time is given to the respondent. If the respondent does not act in accordance with these reports within the given time, Article XXII of the DSU provides to the complainant with solutions such as trade compensation and suspension of concessions.

The structure of the AB is just as important as the tasks it undertakes as well. The AB, which is composed of seven members, serve in rotation and one case is served by three members of the AB. It is expected that each member of the AB needed

129 WTO Agreement, Annex 2 Dispute Settlement Understanding Article XVII:1, Apr. 15, 1994, 1867 U.N.T.S. 154, 33 I.L.M. 1144

130 "Dispute Settlement: Appellate Body", available at https://www.wto.org/english/tratop_e/dispu_e/appellate_body_e.htm (Access on 12.05.2020)

131 "Dispute Settlement Understanding" Online Course of Overview of the WTO Agreements, 2017, p. 68.

to be an expert in international trade, law or "covered" Agreement. In addition, persons to serve on the AB for a four-year period are appointed by the DSB, and each member may be reappointed once.¹³²

After giving this brief background, it would be appropriate to look at the current situation. As of mid-2017, the number of members of the Appellate Body has dropped to three, as the United States has blocked the election of new members to the Appellate Body consisting of seven members and the existing members' extension of term of office. On December 11, 2019, tenure of two of the last three judges expired and Chinese professor Hong Zhao remained as the only member of the Appellate Body. This date is a milestone because the AB needs at least three judges to hear and decide cases, and the AB has been dysfunctional since December 11, 2019.

How was this point reached? Why does the United States implement such a policy against the Dispute Settlement Mechanism? These questions are important because they contain the causes of the issue 'dispute settlement'. Firstly, some countries, particularly the United States, have concerns about the DSB. Especially when looking at the United States, it is understood that the current approach to the DSB is not new. For example, the President Barack Obama administration also prevented the reappointment of Jennifer Hillman, an American and former US trade official, to serve her second four-years in 2011. Moreover, Seung Wha Chang from South Korea from serving a second term was blocked by the Obama administration in 2016.¹³³ As a reason for these obstacles, it is claimed that Seung Wha Chang has exceeded his legal authority, while Jennifer Hillman is said to be insufficient to defend the decisions attacking American trade laws.

Secondly, the United States accuses the AB of exceeding its authority and claims that its judges have actually created new trade laws.¹³⁴ In addition, the United

132 WTO Agreement, Annex 2 Dispute Settlement Understanding Article XVII:2, Apr. 15, 1994, 1867 U.N.T.S. 154, 33 I.L.M. 1144

133 Finbarr Bermingham and Adam Behsudi, "Donald Trump's block on WTO judges creates 'doomsday scenario' for world trade disputes", available at <https://www.scmp.com/economy/china-economy/article/3038697/donald-trumps-block-wto-judges-creates-doomsday-scenario> (Access on 13.05.2020)

134 "World Trade Organization in trouble: What you need to know", available at <https://www.dw.com/en/world-trade-organization-in-trouble-what-you-need-to-know/a-51592575> (Access on 14.05.2020)

States insists that the U.S. Constitution does not allow a foreign court to replace the American court.¹³⁵ Moreover, the United States is concerned that strict adherence to precedent will overshadow what it sees as misinterpretations of the law since there is no mechanism to appeal to the AB report.¹³⁶ It is also mentioned in the same report that the principle of ‘stare decisis’, which can be defined as the obligation of the lower court to comply with the precedent, is not envisaged in the DSU.

Thirdly, it is important to look at the relationship of the United States with China and the European Union (EU) on this issue. The disagreement between the United States and the EU has widened in 2018, with the EU taking favor with India and China, on the proposal of the United States that the AB can be made less accountable to WTO members.¹³⁷ When it is viewed from this aspect, the United States can act aggressively to protect its national interests in international system. For example, Yuka Fukunaga from Waseda University asserted that the main goal of the United States is to discredit the AB and bring the DSB back into a single-tier solution system under the GATT.¹³⁸

Fourthly, in Figure 3.10., looking at the distribution of the issues in the AB reports circulated from 1996 to 2018, it is easily seen how important the WTO dispute settlement system is. As it is mentioned, the AB has become dysfunctional as of December 11, 2019. Since then, the AB could be unable to heard of new appeals and this has been the potential to cause a new problem.

135 Ibid.

136 Jessica Gladstone, “The WTO Appellate Body Crisis a Way Forward”, London: Clifford Chance, 2019, p. 3.

137 Finbarr Bermingham and Adam Behsudi, “Donald Trump’s block on WTO judges creates ‘doomsday scenario’ for world trade disputes”, available at <https://www.scmp.com/economy/china-economy/article/3038697/donald-trumps-block-wto-judges-creates-doomsday-scenario> (Access on 14.05.2020)

138 Yuka Fukunaga, “Interpretative Authority of the Appellate Body: Replies to the Criticism by the United States”, March 20, 2019, p. 15., available at SSRN: <https://ssrn.com/abstract=3356134> or <http://dx.doi.org/10.2139/ssrn.3356134> (Access on 14.05.2020)

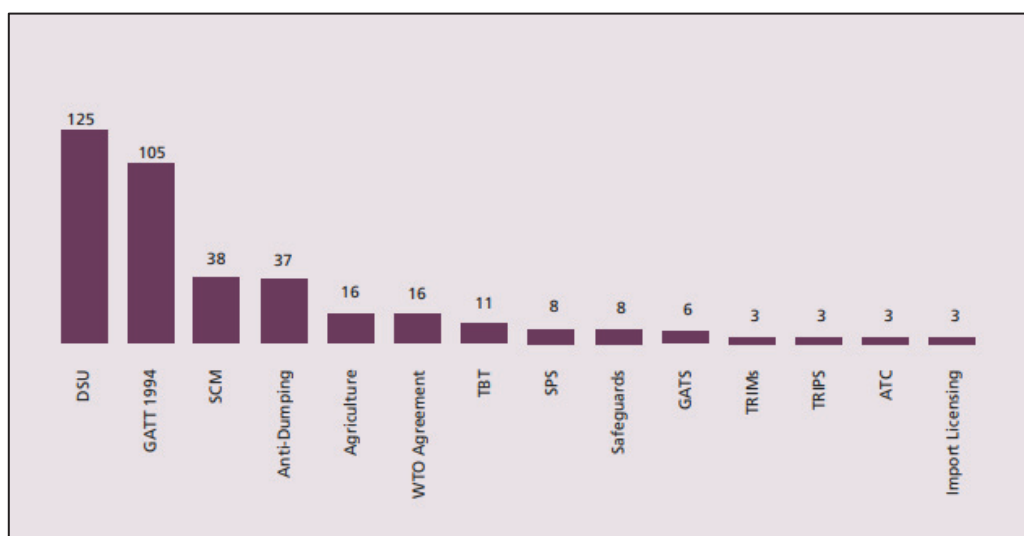


Figure 3-10. WTO Agreements Addressed in AB Reports Circulated: 1996-2018¹³⁹

The issue mentioned above was addressed in the European Commission's proposal for a Regulation called as “Exercise of the Union's rights for the application and enforcement of international trade rules”, dated December 12, 2019. The European Commission states that the WTO members can escape binding decisions by appealing to panel reports.¹⁴⁰ For example, when a panel report is appealed, since the AB is dysfunctional, this dispute will be in a legal void and remain unresolved.¹⁴¹ Therefore, the dispute settlement system is in danger of losing its binding character.

Many policy specialists accept that the national interests of the United States will be carried out by completely circumventing the trade body and negotiating their bilateral trade agreements.¹⁴² Can this approach of the United States on the international system be interpreted as a policy change? According to economist

139 WTO Appellate Body's Annual Report for 2018, Geneva: WTO, March 2019, p. 157.

140 European Commission, Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 654/2014 of the European Parliament and of the Council concerning the exercise of the Union's rights for the application and of the Council concerning the exercise of the Union's rights for the application and enforcement of international trade rules, Brussels, December 12, 2019, p. 1., available at <https://ec.europa.eu/transparency/regdoc/rep/1/2019/EN/COM-2019-623-F1-EN-MAIN-PART-1.PDF> (Access on 15.05.2020)

141 Ibid.

142 “World Trade Organization in trouble: What you need to know”, available at <https://www.dw.com/en/world-trade-organization-in-trouble-what-you-need-to-know/a-51592575> (Access on 15.05.2020)

Martin Braml from the University of Munich's Ifo Institute for Economic Research, the United States is now more concerned with using the power-play rather than working according to the international rules-based system.¹⁴³

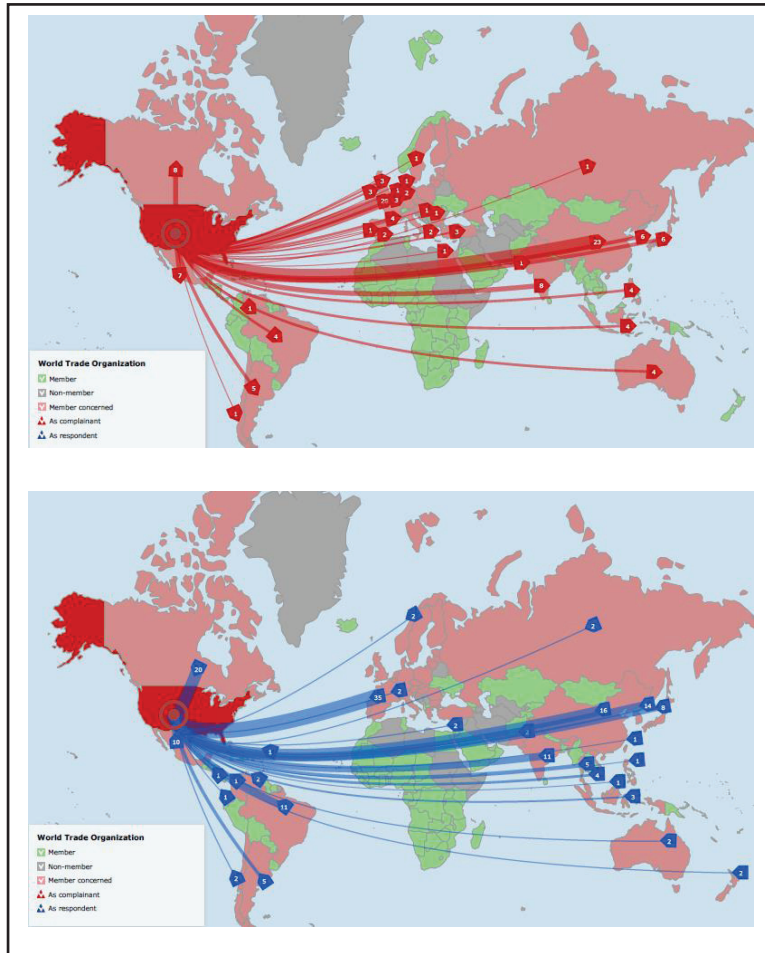


Figure 3-11. Maps of disputes between the US and the WTO Members¹⁴⁴

Lastly, Figure 3.11 shows the dispute maps between the USA and WTO members. The map above shows how many times the United States has complained about which country or group of countries. In this regard, China (23 times) and the EU (20 times) are at the top of the list. The map below sees how many times the United States is respondent against which country or group of countries. In this

143 Ibid.

144 “Maps of disputes between WTO Members”, available at https://www.wto.org/english/tratop_e/dispu_e/dispu_maps_e.htm (Access on 15.05.2020)

respect, the EU (35 times), Canada (20 times) and China (16 times) rank among the top three.

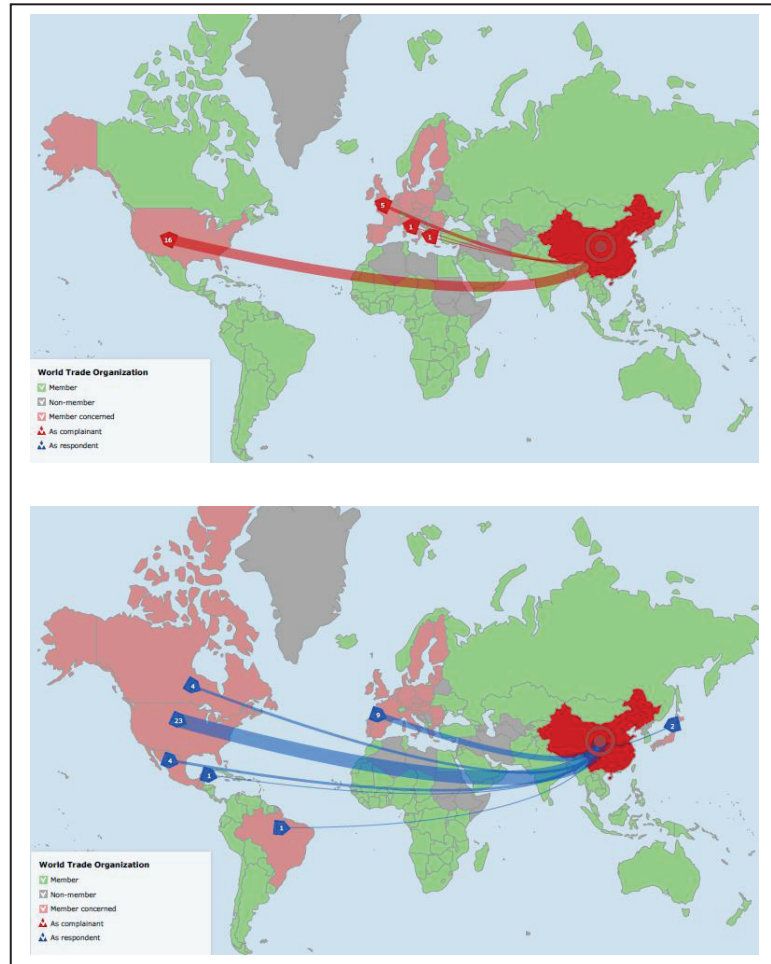


Figure 3-12. Maps of disputes between China and the WTO Members¹⁴⁵

When it is looked at the maps of disputes between China and the WTO Members, the map above shows how many times China has complained about which country or country groups, while the map below sees how many times China is respondent against which country or country groups. China as the complaint country has disputes with the United States (16 times) and the EU (5 times). It is seen from the Figure 3.12. that China as the respondent state has disputes with the United States (23 times) and the EU (9 times).

¹⁴⁵ Ibid.

When the two maps are evaluated together, it is seen that the world is predominantly red for the United States and green for China. That is, it is an indication that the United States has more problems with the current international trade system. As for China, it is striking that China is more compatible with the WTO Members than the United States.

As a result, the United States is more interested in using the power-play, as Martin Braml of the Munich's ifo Institute assert. Because the United States is not satisfied with the WTO's dispute settlement mechanism since the Obama Administration and it shows with the policies it pursues as well. Therefore, the Appellate Body problem experienced in the DSB of the WTO, which is facing an important crisis, should be resolved as soon as possible since it has the potential to cause greater dangers for the international trade system.

3.2.4. Representation & Participation

The concepts of ‘representation’ and ‘participation’ are of great importance in the decision making and negotiation processes in the WTO. As stated in Chapter 2.3., in the WTO, a member-driven international organization, decisions are taken by consensus among all members. In order for the WTO members to participate in these processes, all members must be represented in Geneva. Therefore, ‘representation’ precedes ‘participation’.

To begin with representation, Narlikar states in her book “The World Trade Organization: A Very Short Introduction” in 2005 that nearly 22 member states in the WTO have no delegations to voice their objections to the decision discussed in Geneva.¹⁴⁶ Then, on May 7, 2007, at the opening speech of 14th Geneva Week for WTO Non-Resident Members and Observers, former Director-General Pascal Lamy stated that 30 countries do not have representation in Geneva.¹⁴⁷ As of May 2019, the number of countries without representation in Geneva has decreased to 9.¹⁴⁸ At first

146 Amrita Narlikar, *The World Trade Organization*, Oxford University Press, 2005, p. 45.

147 “Lamy: Chairs Working Towards Revised Papers”, available at https://www.wto.org/english/news_e/sppl_e/sppl62_e.htm (Access on 16.05.2020)

148 “WTO organizes “Geneva Weeks” for non-resident delegations”, available at https://www.wto.org/english/tratop_e/devel_e/genwk_e.htm (Access on 16.05.2020)

glance, these developments that ensure the participation of LDCs are good news. But the news is not good since it is necessary to look at how the increase in the number of representations has been achieved. For example, Bahamas, which did not have a representative office in Geneva in May 2007, had a representative office in Geneva in 2019. The name of this office is written as follows: “Permanent Mission of the Commonwealth of the Bahamas to the United Nations Office and other International Organizations in Geneva.”¹⁴⁹ Another example in this regard is the Maldives, which had no representation in Geneva in May 2007. Similar to the Bahamas, Maldives has an office in Geneva since 2019. When the objectives of the Permanent Mission of the Republic of Maldives to the UN and other International Organizations in Geneva were examined, it was assigned to represent the Maldives in the UN to monitor and attend assorted meetings of the UN and its affiliated organizations in Geneva. In addition, the Mission is expected to attend Human Rights Council, WTO, ECOSOC, OIC, NAM, AOSIS and numerous UN Special Sessions held annually as well.¹⁵⁰

In the light of the information given above, it can be seen that, in the historical process, many countries could not even be represented aside from participating in the discussions in the WTO. Therefore, they were also unable to object to the decisions taken at meetings where they were not represented. Even if the representation problem seems to be "resolved" afterwards, effective participation of these offices, which are accredited to many international organizations, does not seem possible. Secondly, there is a need for officials specialized in various subjects in an office accredited to different international organizations. Moreover, it is difficult to say that LDCs and most developing country delegations have such experts compared to developed countries.

The second part of the title is the subject of ‘participation’ and the issue is divided into several branches. Richard L. Bernal says that in order to ensure more active participation of small developing countries, three areas need to be corrected: Representation, institutional participation capacities and cooperation to defend their

149 “Missions Accredited to International Organizations”, available at <https://mofa.gov.bs/diplomatic-relations/bahamas-overseas-offices/missions-accredited-international-organizations/> (Access on 16.05.2020)

150 “About the Mission”, available at <http://maldivesmission.ch/> (Access on 17.05.2020)

rights.¹⁵¹ On the one hand, Narlikar also draws attention to the following three points: Presence, club-like meetings and informal diplomatic procedures.¹⁵² Constantine Michalopoulos, who temporarily served as a Special Economic Advisor at the WTO, emphasizes another three points regarding participation: Chairmanships, Informal consultations, and the Agenda, new issues and agreements.¹⁵³

Since representation is a prerequisite for participation and the importance of representation is mentioned in the introduction of this subheading, it is useful to move on to the second important point. Narlikar claims that private, club-like meetings are often used to reach consensus, but the majority of developing countries are often excluded from such meetings.¹⁵⁴ Therefore, there were cases when developing countries were not aware of the meetings held, and these situations were raised by the developing countries as the subject of complaints.

Thirdly, informal consultations have been a topic of discussion for many years in WTO diplomacy. Significant developments in the WTO's decision-making processes are rarely made in decision-making bodies of high-level councils. In the WTO, informal consultations play a crucial role in bringing a wide variety of membership rounds into an agreement, as decisions are taken by consensus, without voting.¹⁵⁵ HODs meeting, one of the informal meetings involving full membership, is an example of these. In these meetings that have become widespread recently, the chair of the negotiating group discusses with the relevant delegations in various combinations to reach compromise.

In addition to HODs meetings, another concept is discussed within the scope of informal consultations as well: Green Room meetings. These meetings are held at

151 Richard L. Bernal, *Participation of Small Developing Economies in the Governance of the Multilateral Trading System*, Ontario: the Centre for International Governance Innovation, Working Paper No. 44, December 2009, p. 13.

152 Amrita Narlikar, *The World Trade Organization*, Oxford University Press, 2005, p. 45.

153 Constantine Michalopoulos, *Developing Countries' Participation in the World Trade Organization*, World Bank Policy Research Working Paper No. 1906, March 1998, pp. 13-19., available at <https://ssrn.com/abstract=620518> (Access on 17.05.2020)

154 Amrita Narlikar, *The World Trade Organization*, Oxford University Press, 2005, p. 45.

155 "Whose WTO is it anyway?", available at https://www.wto.org/english/thewto_e/whatis_e/tif_e/org1_e.htm (access on 18.05.2020)

the initiative of the Director-General and has fewer participants than HODs meetings. In the past, the Green Room meetings were working at the invitation of the Director-General, and the list of participants was kept secret, so it became the target of criticisms after Seattle Ministerial Conference (1990).

As Narlikar asserted in Section 2.3, these informal processes cause two main problems: 1) the lack of transparency and predictability, 2) the WTO, which arises due to a lack of rules, is prone to power-based improvisation.¹⁵⁶ To conclude, when the WTO is evaluated in terms of representation and participation, there are serious problems due to the unwritten rules and the application of these rules rather than the written rules in the WTO. Regarding this point, Narlikar claims that this working style of the WTO reflects power imbalances between developed and developing countries, and this working procedure has worsened these inequalities.¹⁵⁷

3.2.5. Transparency & Notification

Transparency is one of the basic rules of the WTO, and it has systemic importance in MTS. Transparency is essential because it allows governments and traders to know trade rules around the world by having access to trade policies and regulations.¹⁵⁸ In this way, trade measures and practices taken by WTO Members are monitored. One of the most essential ways to ensure transparency is notification requirements. A question might be asked in here: Is this system working properly and effectively?

Before answering the above question, it would be useful to know the system, its components, and developments in the process. The rules of transparency are written in Article X of GATT, Article III of GATS, and Article 63 of TRIPS. In addition, there are provisions on transparency in almost all WTO agreements today.¹⁵⁹

156 Amrita Narlikar, *The World Trade Organization*, Oxford University Press, 2005, p. 45-6.

157 *Ibid.*, p. 42.

158 “Transparency” Online Course of Overview of the Basic Principles of the WTO, 2017, p. 48.

159 “Transparency”, available at https://www.wto.org/english/thewto_e/minist_e/mc11_e/briefing_notes_e/bftransparency_e.htm#:~:text=Transparency,raised%20in%20many%20WTO%20forums&text=Underpinning%20this%20notion%20of%20transparency,through%20a%20process%20called%20notification. (access on 19.05.2020)

Transparency is provided in three main ways: Publications, notifications and TPRM.¹⁶⁰ The most important of these, which completes transparency, is notification obligations.

The notifications enable to learn “who is doing what” by other WTO members and traders. Notifications are divided into three groups according to their functions and these are respectively: One-time notifications, ad-hoc notifications, and periodic notifications.¹⁶¹ One-time notifications are that members provide information about their implementing legislation (laws and regulations etc.) after joining the WTO.¹⁶² When a member takes a certain measure or applies that measure an extraordinary obligation arises for that member and the notification of this obligation by the member is called ad-hoc notifications.¹⁶³ The last one is the periodic notifications presented in accordance with the frequency and deadlines set in the relevant procedures.¹⁶⁴

Transparency and notifications have an important place in MTS because the parties to the trade take their positions according to this information. Situations that affect humanity on a global scale provide a better understanding of the importance of these principles. For example, on March 24, 2020, WTO Director-General Roberto Azevêdo encouraged members to inform the Secretariat about any measures or support programs taken by members in the context of the current COVID-19 crisis.¹⁶⁵

On the other hand, transparency and notifications provide parties with predictability for the future in international trade. For example, if the parties that intend to make an agreement do not have enough information about each other's trade policies, it is very difficult for the interested parties to make a fair-trade agreement.

160 Anna Varyanik, Transparency and Notification Requirements, WTO Accession Division, Geneva, 12.02.2019, p. 4., available at https://www.wto.org/english/thewto_e/acc_e/transparency_anna_varyanik_12_feb_2019.pdf (access on 19.05.2020)

161 “Cross-Cutting Issues” Online Course of Introduction to the WTO, 2017, p. 24.

162 Ibid.

163 Ibid.

164 Ibid.

165 WTO, Transparency- Why it matters at times of crisis, Information Note of 7 April 2020, p. 2., available at https://www.wto.org/english/tratop_e/covid19_e/transparency_report_e.pdf (access on 20.05.2020)

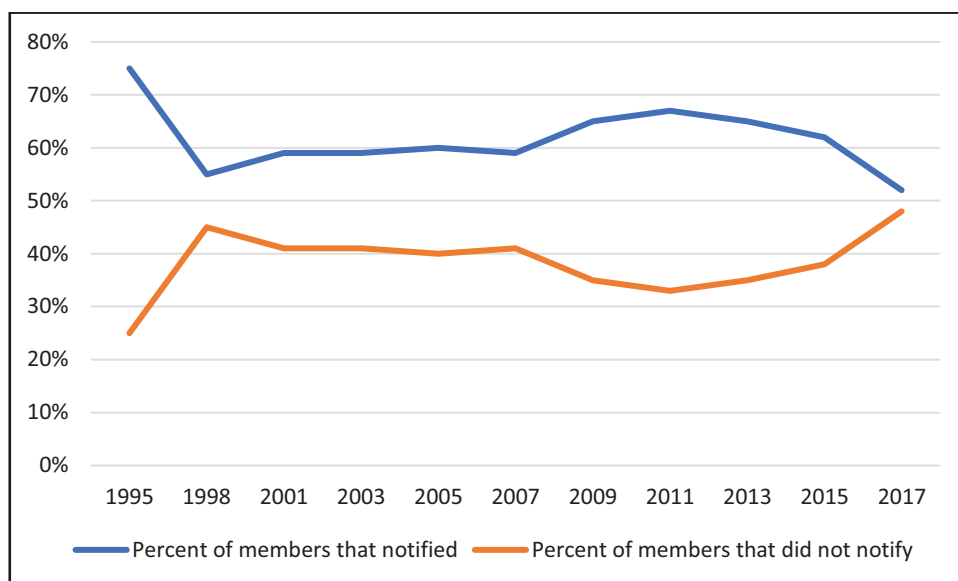


Figure 3-13. The Status of Annual Subsidy Notifications to the WTO¹⁶⁶

In Figure 3.13., it is shown that the percentages of the members regarding the subsidy notifications under Article XXIV: 1 of the Agreement on Subsidies and Countervailing Measures.¹⁶⁷ As can be understood from Figure 3.13., while the percentage of members complying with notification obligations was 75 per cent in 1995, this ratio decreased to 52 per cent in 2017. It is considered that the increase in the number of members since the establishment of the WTO and the low technical capacity of developing countries, especially the LDCs, have an important effect on the decrease of this rate.

At the point of solving the problem, the two major parties have two proposals. The first group includes Argentina, Australia, Canada, Costa Rica, the European Union, Japan, New Zealand, Taiwan's Separate Customs Area, Penghu, Kinmen and Matsu, and the United States. On March 29, 2019, these countries submitted their proposal to the General Council. To summarize this proposal, it introduces new procedures for members to request an extension to fulfill their notification obligations

166 “The Status of Annual Subsidy Notifications to the WTO”, available at <https://www.csis.org/analysis/transparency-wto-why-does-transparency-matter-and-are-members-meeting-their-obligations> (access on 20.05.2020)

167 William Alan Reinsch & Jack Caporal, “Transparency at the WTO: Why Does Transparency Matter, and Are Members Meeting Their Obligations?”, 22 April 2020, available at <https://www.csis.org/analysis/transparency-wto-why-does-transparency-matter-and-are-members-meeting-their-obligations> (access on 20.05.2020)

and sets out various penalties if the rules are not followed.¹⁶⁸ It is also stated in this text that developing countries that have difficulty in meeting their notification obligations may request support from the Secretariat.¹⁶⁹

Secondly, the other party consists of the African Group, Cuba, and India. Presenting its proposal on July 10, 2019, this group pays special attention by mentioning the LDCs many times in the text.¹⁷⁰ They also state that punitive attitudes to enforcing their transparency and notification obligations cannot be accepted. On the other hand, this group underlines that the WTO must be transparent and inclusive in its functioning. For example, frequent conflicting meetings make it difficult for developing countries to participate effectively in negotiations.¹⁷¹ Moreover, they express that WTO meetings must be open to everyone, not just those who participate in the Green Room processes.¹⁷² Although human resources and institutional limitations are not fully resolved, simplified notification formats are recommended for developing countries, with technical support and capacity building in mind.¹⁷³

Topics tried to be explained above included discussions on WTO's internal transparency process, and it would be appropriate to briefly touch on external transparency as well. When it is looked at the issue of transparency from the outside, many NGOs claim that the WTO did not allow NGOs to express their views and establish relations with the organization in the first ten years of its establishment.¹⁷⁴ In response, WTO has made various attempts to inform civil society over time, with the effect of pressure from NGOs. The Public Forum (known as the Public Symposium from 2001 to 2006) held annually since 2006 is one example of this

168 WTO, Procedures to Enhance Transparency and Strengthen Notification Requirements Under WTO Agreements, JOB/GC/204/Rev.1, 1 April 2019, pp. 1-3.

169 Ibid.

170 WTO, An Inclusive Approach to Transparency and Notification Requirements in the WTO, 10 July 2019, pp. 1-4.

171 Ibid.

172 Ibid.

173 Ibid.

174 Bernard Hoekman, "Reform of the WTO". In Amrita Narlikar, Martin Daunton, and Robert M. Stern. *The Oxford handbook on the World Trade Organization*, New York: Oxford University Press, 2012, p. 755.

initiative. The WTO's top outreach event, the Public Forum, invites delegates from academia, governments, inter-governmental organizations, business, the media, and civil society, and discusses the current affairs in global trade and methods to develop MTS.¹⁷⁵

As a result, for the future of MTS, members should act considering the principle of transparency, which is one of the basic rules of the WTO. The most important way to ensure transparency is notification obligations. A WTO system where transparency cannot be achieved drags the parties of the MTS towards uncertainty and unpredictability where "who is doing what" is not known. Considering the current situation and the two proposed proposals, it does not seem easy to reach agreement on how to operate the principle of transparency effectively in WTO.

3.2.6. Regional Trade Agreements (RTAs)

“Are Regional Trade Agreements stepping stones or obstacles to the trading system?”¹⁷⁶ This question was the topic of discussion between Jagdish Bhagwati from Columbia University and Gary Hufbauer from the Peterson Institute at the WTO Forum held on September 12, 2007. As might be expected, two different points of view on RTAs were put forward in this debate.

It would be useful to give basic information about RTAs before proceeding with evaluations regarding the above question. WTO Members have the right to grant preferential treatment to their trading partners within a free trade area or a customs union, without having to extend such better treatment to other WTO Members, subject to certain conditions.¹⁷⁷ RTAs, which are one of the general exceptions to the WTO's basic rules, and written in Article XXIV of GATT, have been widely accepted by countries over time. As mentioned in Chapter 2.5., as of May 23, 2020, 303 RTAs are in force, and cumulative notifications of RTAs in force are 490.

175 “Public Forum”, available at https://www.wto.org/english/forums_e/public_forum_e/public_forum_e.htm (access on 22.05.2020)

176 “Are Regional Trade Agreements stepping stones or obstacles to the trading system?”, available at https://www.wto.org/english/forums_e/debates_e/debate3_e.htm (access on 23.05.2020)

177 “Regional Trade Agreements: Customs Unions and Free Trade Areas?” Online Course of Exceptions to the Basic Principles of the WTO, 2017, p. 13.

Returning to the discussion, Professor Bhagwati first finds it more appropriate to call ‘Preferential Trade Agreements (PTAs)’ rather than ‘Free Trade Agreements (FTAs)’ because he wants to emphasize discrimination in this way. Because Bhagwati likens PTAs to termites and he says that they are eating away at MTS unrelentingly and increasingly.¹⁷⁸ Secondly, Bhagwati claims that hundreds of rules have emerged since each RTA has different cross-over tariffs and rules of origin, and he likens this problem to the spaghetti bowl.¹⁷⁹ Thirdly, Bhagwati asks how small countries and small corporations will tackle this chaotic structure.¹⁸⁰

In the discussion at the WTO Forum, Hufbauer has a more liberal perspective, as opposed to the views of Professor Bhagwati. Firstly, Hufbauer states that whole purpose of all this trade system is to lower barriers, get tariffs down, and get other tariffs down. Then he asks a question: “If the big target is to reduce tariffs, what is the problem?”¹⁸¹ Secondly, while Hufbauer says that the reason for the increase in RTAs is due to a need, he also admits that the WTO is in a stalemated situation.¹⁸² To summarize the discussion, Bhagwati sees these exceptions as trade-diverting using historical analysis, while Hufbauer focuses on certain RTAs for which they have a strong affinity.¹⁸³

Although RTA texts have provisions that third parties can join the relevant RTA and contribute to global value chains, RTAs are likely to pose a threat to the MTS. First of all, as Bhagwati says, RTAs cause discrimination in world trade. For example, after the two parties have agreed on an RTA, as per the exception in the WTO, they do not have to make tariff discounts to third parties. Moreover, these agreements are beyond the name, and countries without neighbors can be parties to

178 Jagdish Bhagwati, *Termites in the Trading System How Preferential Agreements Undermine Free Trade*, New York: Oxford University Press, 2008, p. xii.

179 “Are Regional Trade Agreements stepping stones or obstacles to the trading system?”, available at https://www.wto.org/english/forums_e/debates_e/debate3_e.htm (access on 23.05.2020)

180 Ibid.

181 Ibid.

182 Ibid.

183 Theodore H. Cohn, *Global Political Economy: Theory and Practice (7th Edition)*, New York, N.Y: Routledge, 2016, p. 346.

the same RTA. In addition, those who are not parties to the RTAs are excluded, and their export goods become expensive compared to the countries that are parties to the RTA. Subsequently, this situation may lead to a decrease in the foreign exchange receipts of countries that are not parties to RTAs from exports.

Secondly, when looking at the areas covered by RTAs, it is seen that it includes issues related to competition, reciprocal promotion and protection of investments, government procurement, environment, and labor. Thus, RTAs bring many new rules and regulations in these areas. Moreover, there are no existing WTO rules governing international trade for some of these issues.¹⁸⁴ That is, LDCs, most of the developing countries and small companies in these countries need time and effort to act in accordance with these developments.

Thirdly, when a dispute arises between members in the current WTO system, there is a dispute settlement system, although it is currently in hard times. Likewise, there are rules for dispute settlement in RTAs, and these rules can refer to the WTO agreement as well. However, how will problems that cannot be resolved between the parties be handled? Furthermore, considering that the issue of dispute may be for a special arrangement not included in the WTO agreement, there is an increasing risk of differentiation between the WTO and the RTAs within the MTS.

From the perspective of the WTO Director-General Roberto Azevêdo, on April 14, 2016, he stated that sometimes the RTAs and WTO agreement were considered as if they were in conflict with each other, but that was not the case.¹⁸⁵ In his same speech, he said that it must be admitted that one reason for the increase of RTAs in recent years was the lack of progress in trade agreements globally through the WTO.¹⁸⁶ In his speech at the Stockholm School of Economics in Riga, Latvia on March 24, 2015, he said the following about the solution of the problems in the system: “The simple fact is that very few of the big challenges facing world trade

184 Rohini Acharya, “Regional trade agreements: challenges and opportunities”, 20.12.2019, available at <http://www.intracen.org/news/Regional-trade-agreements-challenges-and-opportunities/> (access on 24.05.2020)

185 Roberto Azevêdo, “DG Azevêdo: A healthy trading system requires progress and engagement at all levels”, 14.06.2016, available at https://www.wto.org/english/news_e/spra_e/spra119_e.htm (access on 25.05.2020)

186 Ibid.

today can be solved outside the global system. They are global problems demanding global solutions”¹⁸⁷. Finally, as Azevêdo said on September 25, 2014, “Time is not on our side”¹⁸⁸ and the urgent solution of the problems spoken within the framework of the WTO reform is of great importance.¹⁸⁹

3.3. Positions on the WTO Reformation

The G20 Leaders’ Summit was held in Buenos Aires, Argentina from 30 November to 1 December 2018, and following statement was stated in the 27th para of the communiqué adopted by the G20 leaders on December 1, 2018:

“International trade and investment are important engines of growth, productivity, innovation, job creation and development. We recognize the contribution that the multilateral trading system has made to that end. The system is currently falling short of its objectives and there is room for improvement. We therefore support the necessary reform of the WTO to improve its functioning. We will review progress at our next Summit.”¹⁹⁰

As can be seen from the above quotation, the mentioned date can be considered as a starting date for proposals on the WTO Reformation. In addition, it is thought that it would be more correct to use the word ‘position’ instead of ‘proposal’ in this study. Because the United States, which has an important place in MTS, has no general reform proposal while the parties such as the EU, China and Ottawa Group have proposals on the WTO reform. In other words, the situation of the United States is seen as a ‘position’ as the United States makes suggestions on specific issues. On the other hand, every proposal is a position, but not every position is a proposal.

187 Roberto Azevêdo, “Regional initiatives cannot substitute for the multilateral trading system—Azevêdo”, available at https://www.wto.org/english/news_e/spra_e/spra50_e.htm (access on 25.05.2020)

188 Roberto Azevêdo, “Regional trade agreements “cannot substitute” the multilateral trading system—Azevêdo”, available at https://www.wto.org/english/news_e/spra_e/spra33_e.htm (access on 26.05.2020)

190 G 20 Leaders’ Declaration 2018, para 27., available at http://www.g20.utoronto.ca/2018/buenos_aires_leaders_declaration.pdf (access on 27.05.2020)

Therefore, in this study, the approaches of the parties are evaluated under the word 'position'.

This section provides positions on the WTO Reform of the United States, EU, China, Ottawa Group, and other developing countries, respectively. Each party derives different meanings from the statement WTO reform because each party, by its very nature, considers WTO reform from its own window and within its own interests. On some issues, the parties share the same view. In order to avoid complexity, these situations were evaluated under the heading of the party leading the formation of this view.

3.3.1. US Position

As it is mentioned in section 3.2.2, it cannot be said that President Trump has a positive view of the WTO. In an interview with Bloomberg News on August 30, 2018, President Trump said: "If they don't shape up, I would withdraw from the WTO" and added that the agreement establishing the body "was the worst trade deal ever made".¹⁹¹ Likewise, as can be remembered from 2018, President Trump made similar statements for other international agreements to which the United States was a party. For example, for the North American Free Trade Agreement (NAFTA), President Trump said that "I have long contended that NAFTA was perhaps the worst trade deal ever made."¹⁹² As another example, at the Group of Seven meeting in Canada, Trump stated that "NATO is as bad as NAFTA. It's much too costly for the US."¹⁹³ Therefore, it is considered that President Trump's views on important international agreements are similar. However, it is difficult to say that the United States' approach to the WTO has completely changed with Trump.

191 "Trump Threatens to Pull U.S. Out of WTO If It Doesn't 'Shape Up'", available at <https://www.bloomberg.com/news/articles/2018-08-30/trump-says-he-will-pull-u-s-out-of-wto-if-they-don-t-shape-up> (Access on 07.05.2020)

192 Meg Wagner & Brian Ries, "Trump gives remarks on US-Mexico-Canada deal", available at https://edition.cnn.com/politics/live-news/trump-us-mexico-canada-remarks-oct-18/h_2c0a8c6bad4dc7a2f98acda7c57ea454 (access on 28.05.2020)

193 Alex Ward, "Trump said 'NATO is as bad as NAFTA.' That's scary.", available at <https://www.vox.com/2018/6/28/17513972/trump-nato-russia-putin-nafta> (access on 28.05.2020)

When the statements made by the United States on the WTO reform and the communication and revision papers submitted to the WTO are examined, it is understood that the United States emphasizes three points. However, the US has not announced a comprehensive reform proposal either. In fact, at the beginning of the process, the Trump administration rejected other countries' reform proposals, and which proposals would be sufficient to address the concerns of the United States remained uncertain.¹⁹⁴

Firstly, the United States strongly emphasizes the developing country status. As it can be remembered from the previous sections, members can determine their own positions according to self-determination in the WTO. This provides significant advantages to developing countries, which make up two thirds of the WTO Members, within the MTS. For example, until 2019, 10 (China, Brazil, Republic of Korea, South Africa, Mexico, India, Turkey, Saudi Arabia, Argentina, Indonesia) of the G20 countries defined themselves as "developing countries" in the WTO. In 2019, Brazil and the Republic of Korea separated from the developing country status. At this point, Trump criticizes and opposes the evaluation of many industrialized countries as "developing countries" in the WTO system.

On this issue, the United States submitted a proposal to limit the practice of developing countries to determine their positions within the framework of the principle of self-determination on February 15, 2019. In this document, the United States proposed that countries respectively included in the mentioned groups would not avail themselves of special and differential treatment in current and future WTO negotiation: "1) A WTO Member or acceding member of the OECD", "2) a WTO Member that is a member of the G20", "3) a WTO Member that is categorized as a "high income" country by the WB" or "4) a WTO Member that account for 0.5 percent or more of global merchandise trade"¹⁹⁵.

In addition, on February 14, 2019, the United States submitted a detailed revision paper of 45 pages called "An Undifferentiated WTO: Self-Declared

194 Jack Caporal & Dylan Gerstel, "WTO Reform: The Beginning of the End or the End of the Beginning?", available at <https://www.csis.org/analysis/wto-reform-beginning-end-or-end-beginning> (access on 29.05.2020)

195 "Procedures to Strengthen the Negotiating Function of the WTO", WT/GC/W/764, 15 February 2019.

Development Status Risks Institutional Irrelevance” to the General Assembly. In this document, the United States first provided information on the indicators of the world that have changed since 1995.¹⁹⁶ It also mentions other international organizations that adapt to changing realities and criticizes the WTO for not being able to tackle changing challenges.¹⁹⁷

Secondly, the Dispute Settlement Mechanism, which has been the subject of significant debate in recent years, is an issue highlighted by the United States. As it was explained in section 3.2.3, as of mid-2017, the number of members of the Appellate Body has dropped to three, since the United States has blocked the election of new members to the Appellate Body consisting of seven members and the existing members' extension of term of office. On December 11, 2019, tenure of two of the last three judges expired and Chinese professor Hong Zhao remained as the only member of the Appellate Body. This date is a milestone because the AB needs at least three judges to hear and decide cases, and the AB has been dysfunctional since December 11, 2019.

Current approach of the United States to the DSB is not new phenomena. For example, the President Barack Obama administration also prevented the reappointment of Jennifer Hillman, an American and former US trade official, to serve her second four years in 2011. Moreover, Seung Wha Chang from South Korea from serving a second term was blocked by the Obama administration in 2016.¹⁹⁸ As a reason for these obstacles, it is claimed that Seung Wha Chang has exceeded his legal authority, while Jennifer Hillman is said to be insufficient to defend the decisions attacking American trade laws.

The United States' preference for such a policy can be explained in many different ways, but it is actually based on two main reasons: 1) The assumption that the Appellate Body has exceeded its powers 2) The claim that the United States has

196 “An Undifferentiated WTO: Self-Declared Development Status Risks Institutional Irrelevance”, WT/GC/W/757/Rev.1, 14 February 2019.

197 Ibid.

198 Finbarr Bermingham and Adam Behsudi, “Donald Trump’s block on WTO judges creates ‘doomsday scenario’ for world trade disputes”, available at <https://www.scmp.com/economy/china-economy/article/3038697/donald-trumps-block-wto-judges-creates-doomsday-scenario> (Access on 13.05.2020)

largely lost these cases. Schneider-Petsinger claims that the current US administration wants to go back to the times when GATT's non-binding disputes were resolved.¹⁹⁹ In addition, the United States has not submitted any proposals regarding the DSB.

Thirdly, the United States pays special attention to transparency and notification requirements issues. In this respect, many countries, led by the United States, submitted their revision requests to the WTO General Council on November 1, 2018²⁰⁰, March 29, 2019²⁰¹ and March 5, 2020²⁰², respectively under the name “Procedures to Enhance Transparency and Strengthen Notification Requirements under the WTO Agreements”. In these documents, led by the United States, including the EU and Canada, a number of technical arrangements have been proposed to strengthen transparency and to increase the effectiveness of notification requirements in the WTO. Moreover, the United States is developing its reform agenda and expresses its views on issues such as new rules addressing the unfair advantage accrued by countries due to the abuse of existing rules on subsidies, and definitions of state-owned enterprises.²⁰³ In fact, the United States, Japan and the EU Trade Ministers submitted their joint statement on September 25, 2018²⁰⁴, May 23, 2019²⁰⁵ and January 14, 2020²⁰⁶.

199 Marianne Schneider-Petsinger, “The Path Forward on WTO Reform”, available at <https://www.chathamhouse.org/expert/comment/path-forward-wto-reform> (access on 30.05.2020)

200 “Procedures to Enhance Transparency and Strengthen Notification Requirements under the WTO Agreements”, JOB/GC/204, 1 November 2018, pp. 1-4.

201 “Procedures to Enhance Transparency and Strengthen Notification Requirements under the WTO Agreements”, JOB/GC/204/Rev.1, 29 March 2019, pp. 1-3.

202 “Procedures to Enhance Transparency and Strengthen Notification Requirements under the WTO Agreements”, JOB/GC/204/Rev.3, 5 March 2020, pp. 1-4.

203 Amrita Narlikar, “Reforming the World Trade Organization”, The Heinrich-Böll-Stiftung The Green Political Foundation, 17 January 2020, available at <https://www.boell.de/en/2020/01/17/reforming-world-trade-organization> (access on 30.05.2020)

204 “Joint Statement on Trilateral Meeting of the Trade Ministers of the United States, Japan, and the European Union”, available at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/september/joint-statement-trilateral> (access on 30.05.2020)

205 “Joint Statement of the Trilateral Meeting of the Trade Ministers of the United States, European Union, and Japan”, Paris, 23 May 2019, available at https://trade.ec.europa.eu/doclib/docs/2019/may/tradoc_157894.pdf (access on 30.05.2020)

206 “Joint Statement of the Trilateral Meeting of the Trade Ministers of Japan, the United States and the European Union”, Washington, DC; 14 January 2020, available at https://trade.ec.europa.eu/doclib/docs/2020/january/tradoc_158567.pdf (access on 30.05.2020)

To summarize, despite President Trump's statements targeting the WTO, a sentence in the "2020 Trade Policy Agenda and 2019 Annual Report" prepared by the United States Trade Representative can somewhat reduce concerns about the existence of the WTO. This sentence is: "The United States still believes the WTO has the potential to play an instrumental role in helping make markets more efficient, pursuing balanced trade among the world's economies, and creating greater wealth and prosperity for U.S. citizens."²⁰⁷

3.3.2. EU Proposal

It can be said that the most enthusiastic side about WTO reform is the EU because it has been trying as much as possible to reach a compromise between parties with different approaches. In this section, it would be seen that the EU makes joint statements and common proposals with different parties on various issues. Therefore, it is understood that the EU pursues a flexible policy in line with its own interests.

The EU published a concept paper on WTO reform on September 18, 2018 and expressed its recommendations on WTO reform under three main headings. These are respectively: "1) rulemaking and development, 2) regular work and transparency, and 3) dispute settlement."²⁰⁸ First of all, the EU is very sensitive about rule making and development practices. In this context, the EU makes various suggestions in order to adapt to changing conditions and to create a fair competition in the market. These recommendations are to improve transparency and subsidy notifications, better capturing state-owned enterprises (SOEs), and more effectively the most trade-distortive types of subsidies.²⁰⁹ In addition, the EU emphasizes the need to address the issues of market access barriers, discriminatory treatment of foreign investors, including those related to forced technology transfer and other trade distortive

207 United States Trade Representative, "2020 Trade Policy Agenda and 2019 Annual Report of the President of the United States on the Trade Agreements Program", February 2020, p. 2., available at https://ustr.gov/sites/default/files/2020_Trade_Policy_Agenda_and_2019_Annual_Report.pdf (access on 31.05.2020)

208 European Union, "WTO modernization: Introduction to future EU proposals", Concept Paper, 18 September 2018, available at http://trade.ec.europa.eu/doclib/docs/2018/september/tradoc_157331.pdf (access on 10.04.2020)

209 Ibid., pp. 4-5.

policies.²¹⁰ The EU fully supports the perspective that developing countries should be given the flexibilities and assistance they need to achieve their development goals.²¹¹ However, the EU states that changes should be made to how the flexibilities are prepared and implemented in the organization in order to make it available to Members who really need flexibility.²¹²

Secondly, the EU draws attention to the importance of regular work and transparency. In this proposal, the EU says that while allocating important resources to make complete and timely notifications, the important trade partners of the EU do not comply with these obligations sufficiently.²¹³ This may lead to a lack of information about EU firms' access to these markets and makes it difficult for EU firms to compete fairly in these markets. To tackle this problem, the EU proposes to improve or establish the following practices regarding notifications: “1) More effective committee-level monitoring, 2) Incentives for improving notification compliance, 3) Sanctions for wilful and repeated non-compliance, 4) Counter-notifications, and 5) Strengthening TPRM.”²¹⁴ In this part, the EU also made proposals such as resolving market access problems, gradually organizing the WTO rulebook and downsizing ineffective committees.²¹⁵

Thirdly, the EU points out the importance of the disputes settlement mechanism in this proposal. As it was explained in section 3.2.3, as of mid-2017, the number of members of the AB has dropped to three, since the United States has blocked the election of new members to the AB consisting of seven members and the existing members' extension of term of office. After this policy of the United States, there was a wide acknowledgment that systemic solution is needed to maintain the independence and impartiality of the AB members.²¹⁶ Hence, the EU has worried that

210 Ibid., pp. 5-6.

211 Ibid., p. 7.

212 Ibid.

213 Ibid., p. 9.

214 Ibid., pp. 9-10.

215 Ibid., p. 11.

216 Ibid., p. 15.

the non-reappointment of a member of the AB due to the content of certain decisions may be affected by the threat of such non-reappointment of certain AB members.²¹⁷ For this reason, the EU offers a two-stage proposal for the solution of the problem. These are as follows: “1) comprehensive amendment of the provisions of the DSU relating to the functioning of the AB addressing all points of concern with the "approach" of the AB, and 2) addressing substantive issues.”²¹⁸

In these two phases, the EU proposes to establish new rules for outgoing AB members, which clearly state in which situations they can work to complete their appeals, and ensure that the appeal proceedings are completed on time, in accordance with the 90-day period specified in the WTO rules, unless the parties in the dispute agree otherwise²¹⁹. In addition, the EU points out that the AB should only address issues necessary to resolve the dispute, and to introduce annual meetings between the WTO members and the AB to openly discuss systemic issues or case law trends.²²⁰ Furthermore, the EU proposes to strengthen the independence and impartiality of the AB and to increase its efficiency, and contain 6 to 8 years of single and longer duration for AB members, as well as 7 to 9 full-time members.²²¹

In addition to the EU's reform proposal mentioned above, the EU is also actively involved in many issues related to the WTO reform. In the historical process, first of all, upon the invitation by Canada, the EU participated in this meeting to develop and improve the WTO and on October 24-25, 2018 (to be discussed in detail in Section 3.3.4.) Then, the EU made joint statements on transparency and notifications in 2018, 2019 and 2020, along with the United States and Japan. Moreover, the EU, along with China and Canada, also participated in “the WTO reform proposal on DSU” twice in November 2018. Finally, the EU participated in the proposal “Multi-party Interim Appeal Arbitration Arrangement Pursuant to Article

217 Ibid.

218 Ibid., pp. 15-17.

219 Philipp Lamprecht, “The EU’s Position on the WTO Reform and what’s ongoing”, European Centre for International Political Economy (ECIPE), 26 September 2019, p. 6.

220 Ibid.

221 Ibid.

25 of the DSU” with other 18 parties to overcome the current paralysis of the WTO’s AB and solve trade disputes amongst the WTO Members²²².

3.3.3. Chinese Proposal

While other countries are named according to ethnic groups or geographical borders, China has named itself “zhongguo”, namely “Middle Kingdom” or “Central State”.²²³ This statement is important because it shows China's self-definition and how it positions itself in the world. Thus, it would be useful to give information about the short history of modern China before discussing China's proposal on WTO reform.

After the Civil War (1945-1949) between the Nationalist Kuomintang and Communist Forces, Communist Leader Mao Zedong declared the founding of the People's Republic of China on October 1, 1949. Then, the Great Leap Forward campaign, which was led by Mao between 1958 and 1962, transforming China from an agricultural society to an industrial society, failed. With the economic depression caused by the Great Leap Forward and the weakening of his position in the party, Mao started a new movement: The Cultural Revolution, which is aimed to replace the ‘4 olds’ (old ideas, culture, customs, and habits). The Cultural Revolution, which started in 1966 and produced social, political, and economic problems, ended with Mao's death in 1976. On May 24, 1977, in his speech titled “Respect Knowledge, Respect Trained Personnel” made by Deng Xiaoping, who was become influential since 1977 and accepted as the architect of modern China, he gave a sign of the future of China:

“The key to achieving modernization is the development of science and technology. And unless we pay special attention to education, it will be impossible to develop science and technology. Empty talk will get our modernization programme nowhere; we must have knowledge and trained personnel. Without them, how can we develop our science and technology? And if we are backward in those areas, how can we advance? We must recognize our

222 Council of the EU, “Council approves a multi-party interim appeal arbitration arrangement to solve trade disputes”, 15 April 2020, available at <https://www.consilium.europa.eu/en/press/press-releases/2020/04/15/council-approves-a-multi-party-interim-appeal-arbitration-arrangement-to-solve-trade-disputes/> (access on 20.05.2020)

223 Henry Kissinger, *Çin: Düinden Bugüne Yeni Çin*, trans. Nalan Işık Çeper, İstanbul: Kaknüs Yayınları, 2015, p. 24.

backwardness, because only such recognition offers hope. Now it appears that China is fully 20 years behind the developed countries in science, technology and education. So far as scientific research personnel are concerned, the United States has 1,200,000 and the Soviet Union 900,000, while we have only some 200,000.”²²⁴

While Mao did not pay much attention to increasing China's international trade or making its economy competitive internationally; as can be understood from the quotation above, Deng was inviting the people to take a huge responsibility to overcome their backwardness.²²⁵ The Third Plenum of the Eleventh Central Committee held in December 1978 was a turning point for China because at this plenum a new period called “reform and opening-up” was launched under the leadership of Deng Xiaoping, in China. In 1980, the participation of the People's Republic of China by taking responsibility in its relations with the World Bank and the IMF²²⁶ enabled China to integrate into the global economic system. China's membership of the WTO in 2001 after 15 years of negotiations was a milestone in the history of the MTS.

As can be shown in Figure 3.14., in the 1980s, China's average annual growth rate of GDP was slightly above 9%, and China has made significant progress on this path. Naughton claims that China's per capita GDP growth is around 7% per year over the period between 1978 and 2005, and this is still the period of fastest economic growth in human history.²²⁷ If Naughton's claim is extended, it can be understood from Figure 3.14. that China's average annual growth rate of GDP was around 9.5% between 1980 and 2018. In the history, there have been countries that have reached high growth averages for many years, but there is no other country like China that had grown at an average rate of 9.5% a year for 39 years.

224 Deng Xiaoping, “Respect Knowledge, Respect Trained Personnel”, 24 May 1977, in Selected Works of Deng Xiaoping, Vol. II: 1975-1982, Beijing: Foreign Languages Press, 1984, p. 53.

225 Henry Kissinger, Çin: Dünden Bugüne Yeni Çin, İstanbul: Kaknüs Yayınları, 2015, p. 408.

226 “At a Glance - China and the IMF”, available at <https://www.imf.org/external/country/chn/rr/glance.htm> (access on 20.05.2020)

227 Barry Naughton, The Chinese Economy: Transitions and Growth, Cambridge: MIT Press, 2007, pp. 142-143.

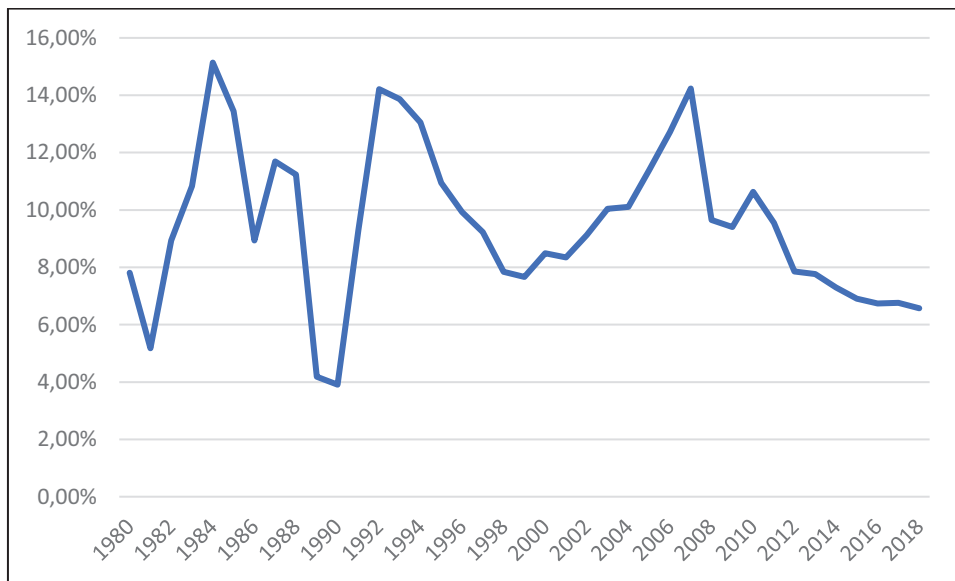


Figure 3-14. China's average annual growth rate of GDP, 1980-2018²²⁸

Regarding China's proposal on WTO reform, the process started with a white paper called “China and the World Trade Organization” published by the State Council Information Office of China on June 28, 2018. In this paper, it is stated that China has continued its development with its door wide open for 40 years by sticking to the fundamental national policy of “reform and opening-up”.²²⁹ It is also indicated that since China's participation in the WTO (2001), China has been a strong advocate of free trade and supported the MTS.²³⁰ Moreover, it is expressed that China has fulfilled its commitment to the WTO, has opened its market significantly to the world, and has provided wider mutual benefits and win-win results through studies such as the Belt and Road Initiative.²³¹

China has published two important documents on the WTO Reform: The first was “China's Position Paper on WTO Reform” published by the Ministry of Commerce of the People's Republic of China on November 23, 2018, and the second

228 Source: The World Bank Data, available at https://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG?end=2018&locations=CN&name_desc=false&start=1980&view=chart (access on 20.05.2020)

229 The State Council Information Office of China, “China and the World Trade Organization”, June 2018, Beijing: Foreign Languages Press, p. 3., available at http://english.scio.gov.cn/2018-06/28/content_53822671.htm (access on 21.05.2020)

230 Ibid.

231 Ibid.

was “China's Proposal on WTO Reform” presented to the WTO by the Chinese delegation on May 13, 2019. The first document proposed three basic principles and five suggestions. These three principles are: preserve the core values of the MTS (non-discrimination and openness), safeguard the development interests of developing countries, and follow the practice of decision-making by consensus. The five suggestions are as follows: “1) uphold the primacy of the MTS”, “2) address the existing crisis or problems faced by the WTO”, “3) address the imbalance of trade rules and respond to the latest developments of our time”²³², “4) safeguard the S&D treatment for developing members”, and “5) respect members' development models.”²³³ Based on this position, Viviana Zhu from the Institut Montaigne says that Chinese analysts agree that reform is essential, but they do not express a sense of urgency from their own perspective.²³⁴

When the second document called as “China's Proposal on WTO Reform” is analyzed, it is seen that China reiterated the three basic principles, which put forward regarding the WTO Reform on November 23, 2018. In addition, China emphasizes the following four issues regarding WTO reform: 1) resolving the important and urgent matters that frightening the existence of the WTO²³⁵, 2) increasing WTO's interest in global economic governance, 3) enhancing WTO's functional efficiency and 4) increasing the inclusiveness of the MTS.²³⁶ Moreover, it is stated that the “certain member”, whose name was not mentioned in the proposal, abuses the national security exception and takes unilateral measures inconsistent with the WTO rules.²³⁷ In summary, China emphasizes that the dispute settlement mechanism is very crucial for the MTS and advocates the importance of developing country status. Since China

232 Feng Lu, “The Unfolding WTO reform with emphasis on Sino-U.S. disputes”, China Finance 40 Forum, p. 22., available at <https://www.piie.com/system/files/documents/lu-feng2019-01-23ppt.pdf> (access on 21.05.2020)

233 Ibid.

234 Viviana Zhu, “China, The Reluctant WTO Reformer”, Institut Montaigne, March 2019, p. 2., available at <https://www.institutmontaigne.org/documents/china-trends/190311-china-trends-1.pdf> (access on 21.05.2020)

235 China, “China’s Proposal on WTO Reform”, WT/GC/W/773, 13 May 2019, p. 3.

236 Ibid.

237 Ibid., pp. 3-4.

claims that China's GDP per capita is only 1/7 of the United States and lower than Grenada, and the Maldives, so the position of China is that it would be irrational to classify China as a developed country.²³⁸

In addition to the suggestions mentioned above, China participates as a party of various proposals given by other countries or country groups as well. For example, China, along with the EU and Canada, joined in “the WTO reform proposal on DSU” twice in November 2018. Regarding this issue, China also participated in the document related to the concerns of countries such as the EU, Canada, and India about the dispute settlement mechanism on December 10, 2018.²³⁹ On the same issue, China, together with many countries, became a party to the statement of interim appeal arbitration arrangement to solve this problem on April 30, 2020 (to be discussed in Section 3.3.4.). On March 4, 2019, on the other hand, China participated in document, called as the continued of S&D treatment in favor of developing Members, along with many developing countries as well.²⁴⁰

Consequently, starting from the “Reforming the International Order” article on February 8, 2018 in Beijing Review, China's only national weekly news magazine, a question might be asked: Is China overhauling the international order? The answer to the question is given in the article as follows: “China is in fact a beneficiary of the current international system, and the process of reform and opening up continues to adapt China's domestic conditions to better fit this global order”²⁴¹. As can be comprehended from this statement, China wants to make changes through reforms rather than making major revolutionary changes in the current international order.

238 Xiankun LU, “China’s Perspectives on WTO Reform”, 26 November 2019, available at <https://iit.adelaide.edu.au/news/list/2019/11/26/chinas-perspectives-on-wto-reform> (access on 22.05.2020)

239 The EU, China, Canada, India, Norway, New Zealand, Switzerland, Australia, Republic of Korea, Iceland, Singapore, Mexico and Costa Rica, “Communication from the EU, China, Canada, India, Norway, New Zealand, Switzerland, Australia, Republic of Korea, Iceland, Singapore, Mexico and Costa Rica to the General Council”, WT/GC/W/752/Rev.1, 10 December 2018, p. 1.

240 China, India, South Africa, the Bolivarian Republic of Venezuela, Lao People’s Democratic Republic, Plurinational State of Bolivia, Kenya, Cuba, Central African Republic and Pakistan, “The Continued Relevance of Special and Differential Treatment in Favour of Developing Members to Promote Development and Ensure Inclusiveness”, WT/GC/W/765/Rev.2, 4 March 2019, p. 1.

241 Lan Xinzhen, “Reforming the International Order”, Beijing Review, 8 February 2018, available at http://www.bjreview.com/World/201802/t20180202_800116313.html (access on 22.05.2020)

3.3.4. Ottawa Groups' Proposal

According to Canadian perspective, global economic prosperity can proceed only if the WTO maintains to play its essential role in ensuring that international trade flows as freely as possible.²⁴² Canada, like the EU and China, thinks the WTO faces serious problems. Therefore, Jim Carr, Canadian Minister of International Trade Diversification, invited 12 WTO Members to Ottawa on October 24 and 25, 2018. Two important countries not called by Canada were the United States and China. Australia, Brazil, Chile, the EU, Japan, Kenya, the Republic of Korea, Mexico, New Zealand, Norway, Singapore, and Switzerland were the guests of this meeting and formed the Ottawa Group under the leadership of Canada.

The aim of the Ottawa Group is to initiate discussions on WTO reform and to enable significant, pragmatic, and reasonable reforms to the WTO in the short, medium, and long term.²⁴³ Before this meeting in October 2018, Canada published a white paper on September 24, 2018, summarizing the discussions on the WTO. In this study presented to the WTO, Canada focused on three themes. These are respectively: “1) Improving the efficiency and effectiveness of the WTO monitoring function (including to enhance notification and transparency of domestic measures)”, “2) Safeguarding and strengthening the dispute settlement system (covering to update and ensure appellate review)”²⁴⁴, and “3) Modernizing the trade rules for the twenty-first century (involving to determine priorities for modernizing the rules)”²⁴⁵

The important topics of the Joint Communiqué of the Ottawa Group, which were gathered on October 24-25, 2018 after the publication of this white paper of Canada, are as follows: “1) Emphasizing the dispute settlement system as a basic

242 “Canada to host Ottawa Ministerial on WTO Reform”, 22 October 2018, available at <https://www.canada.ca/en/global-affairs/news/2018/10/canada-to-host-ottawa-ministerial-on-wto-reform.html> (access on 23.05.2020)

243 “Ottawa Group and WTO Reform”, available at <https://www.canada.ca/en/global-affairs/news/2019/05/ottawa-group-and-wto-reform.html> (access on 23.05.2020)

244 Canada, “Strengthening and Modernizing the WTO: Discussion Paper”, JOB/GC/201, 24 September 2018, pp. 1-8.

245 Ibid.

foundation of the WTO (including to unblock the appointment of AB members)”²⁴⁶, “2) Renovating the negotiating function of the WTO (covering to handle unfinished and pending business, and underlying to aware of market distortions caused by subsidies and other instruments)”²⁴⁷, and “3) Strengthening the monitoring and transparency of members' trade policies (involving to enhance transparency and notification obligations)”²⁴⁸.

On January 24, 2019, the Ottawa Group, chaired by Canada, met in Davos, and emphasized the importance of dispute settlement mechanism, transparency aspects, and negotiating function of the WTO. It is also stated that Ottawa Group's participation in the ongoing reviews of the proposal will increase in order to strengthen notification requirements and increase transparency within the framework of the WTO Agreements.²⁴⁹ In addition, the Ottawa Group members have begun to examine and discuss some of the WTO bodies in order to improve their negotiating functions in the WTO. On the other hand, the Ottawa Group also invited all Members to negotiations to make an effective agreement on fisheries subsidies in that year. The Ottawa Group, which convened again in Paris in May 2019, continued its debates about the current situation in the WTO. Moreover, ongoing work on Joint Statement Initiatives, including specific issues such as e-commerce, transparency, industrial subsidies, and notification obligations, was also discussed.²⁵⁰

As a result, the Canadian-led Ottawa Group agrees with the proposals submitted to the WTO within the framework of their themes. For example, many members of the Ottawa Group became a party to the proposal made on December 10, 2018, regarding the dispute settlement mechanism mentioned in the previous

246 The Ottawa Group, “Joint Communiqué of the Ottawa Ministerial on WTO Reform”, 25 October 2018, available at https://www.wto.org/english/news_e/news18_e/dgra_26oct18_e.pdf (access on 24.05.2020)

247 Ibid.

248 Ibid.

249 “Joint Communiqué of the Ottawa Ministerial on WTO Reform group meeting in Davos”, January 2019, available at https://www.international.gc.ca/world-monde/international_relations-relations_internationales/wto-omc/2019-01-24-davos.aspx?lang=eng#fmb1 (access on 25.05.2020)

250 “Summary of Ottawa Group Meeting in Paris, May 2019”, May 2019, available at <https://www.canada.ca/en/global-affairs/news/2019/05/summary-of-ottawa-group-meeting-in-paris-may-2019.html> (access on 25.05.2020)

subsection. In addition to this, considerable majority of the Ottawa Group participated in the proposal “Multi-party Interim Appeal Arbitration Arrangement Pursuant to Article 25 of the DSU”²⁵¹ with other parties to overcome the current paralysis of the WTO’s AB and solve trade disputes amongst the WTO Members on April 30, 2020. To conclude, the work of the Ottawa Group is essential for the WTO reform and contributes to the development of the MTS, but the statement “We seek a fully operational WTO that benefits all”²⁵² appears only as a good wish during these periods of intense conflict of interest.

3.3.5. Other Developing Countries’ Proposal

Developing countries within the MTS constitute two thirds of the WTO members. Therefore, developing countries will be the biggest addressee of possible WTO reform or any important changes to be made in the WTO. In here, this question might be asked: Are developing countries speaking with one voice about WTO reform? It is very difficult to answer this question as “yes” because developing countries have a fragmented structure even if they are united around the same proposals from time to time. For example, EU members include developed countries such as Germany and France, as well as developing countries like Bulgaria and Romania, too. Therefore, it is not easy to harmonize interests. On the other hand, as it is known, China and India are considered as developing countries and they may follow different policies from many developing countries in Asia Continent. The reason for this is the countries that have a weight in the world economy even though India and China have problems in income distribution and per capita income.

Considering India as a developing country, it is known that it does not provide a comprehensive proposal on WTO reform. However, as mentioned earlier, it became a party to many proposals submitted to the WTO. Although India has previously

251 Australia, Brazil, Canada, China, Chile, Colombia, Costa Rica, the EU, Guatemala; Hong Kong, China; Iceland, Mexico, New Zealand, Norway, Pakistan, Singapore, Switzerland, Ukraine and Uruguay, “Statement on a Mechanism for Developing, Documenting and Sharing Practices and Procedures in the Conduct of WTO Disputes”, JOB/DSB/1/Add.12, 30 April 2020, pp. 1-7.

252 “Joint Communiqué of the Ottawa Ministerial on WTO Reform”, 25 October 2018, available at <https://www.canada.ca/en/global-affairs/news/2018/10/joint-communication-of-the-ottawa-ministerial-on-wto-reform.html> (access on 26.05.2020)

criticized the WTO for representing the interests of developed countries, it understands the importance of WTO in achieving its economic goals and positions itself as a representative of the interests of developing countries.²⁵³ Moreover, India is also one of the signatory countries of the documents dated March 4, 2019²⁵⁴, July 11, 2019²⁵⁵ and August 7, 2019²⁵⁶, which are among the important proposals of developing countries.

When the above-mentioned documents are evaluated together with the suggestions that the developing countries have also participated in the previous subtitles, it is seen that seven issues have come to the fore in the positions of the developing countries. To summarize them briefly, firstly, developing countries want to solve the Appellate Body problem experienced in the DSB. Because the AB is seen as a leverage used by developing countries against developed countries, and it also provides developing countries an area where they can defend their rights. Secondly, developing countries do not support any form of decision making that will undermine the consensus practice in the WTO. Thirdly, developing countries criticize the approaches of developed countries on industrial subsidies. Because while it is obvious that developed countries have given industrial incentives in an unquestioned amount in the past, it is not accepted that developing countries that have recently entered these processes are not granted this right.

Fourthly, developed countries can support farmers and agricultural sectors as much as they want due to the unfair provisions in the Agreement on Agriculture, but

253 Patryk Kugiel, "India on WTO reform: Defending the Status Quo", The Polish Institute of International Affairs, 16 May 2019, available at https://pism.pl/publications/India_on_WTO_reform__Defending_the_Status_Quo (access on 27.05.2020)

254 China, India, South Africa, the Bolivarian Republic of Venezuela, Lao People's Democratic Republic, Plurinational State of Bolivia, Kenya, Cuba, Central African Republic and Pakistan, "The Continued Relevance of Special and Differential Treatment in favour of Developing Members to Promote Development and Ensure Inclusiveness", WT/GC/W/765/Rev.2, 4 March 2019, pp. 1-39.

255 Plurinational State of Bolivia, Cuba, Ecuador, India, Malawi, South Africa, Tunisia, Uganda and Zimbabwe, "Strengthening the WTO to Promote Development and Inclusivity", WT/GC/W/778, 11 July 2019, pp. 1-5.

256 The African Group, the Plurinational State of Bolivia, Cuba, Ecuador, India and Oman, "Strengthening the WTO to Promote Development and Inclusivity", WT/GC/W/778/Rev.2, 7 August 2019, pp. 1-5.

developing countries are limited only to de minimis²⁵⁷ rates. They would like to eliminate this imbalance in agricultural subsidies before industrial subsidies. Fifthly, developing countries claim that the determination of the level of development is guaranteed during the establishment of the WTO and there is a right that the members can be determined by themselves. It is also stated that WTO Agreements are also accepted on this principle and it will not be possible to renounce this right.

Sixthly, developing countries think that the preparation of notifications within the scope of transparency principle is related to the institutional capacities and human resources of these countries. Therefore, it is not accepted that developing countries, which have restrictions on this issue, are subject to criminal sanctions in cases where they cannot notify. Finally, developing countries support the discussion of WTO issues such as facilitating investments, e-commerce, and integration of SMEs in global trade, but they also would like to keep the long-standing issues in the field of agriculture and development on the agenda. At the same time, developing countries continue their desire to provide flexibility to them while discussing new issues.

3.4. Approaches to the WTO Reformation

As it is known, based on the definition of reform, the reasons of the reform in the WTO system and the positions of the countries and country groups related to the WTO reform are tried to be examined in this section. In the context of International Relations theories, it is seen that there is a gap in the literature when looking at WTO reform. It is thought that this literature gap has two main reasons. Firstly, the WTO reform debate remains a new issue, despite the historical background of the problems in the WTO system. Secondly, the WTO reform is an interdisciplinary field and is the intersection set of international relations, international economics, and international law. Therefore, the issue of WTO reform may create serious restrictions for researchers to study this issue in the context mentioned.

In Section 2.6., which is called as “Approaches to the WTO System”, the WTO system has tried to be examined through realist and liberal theories of International

257 De minimis: “Minimal amounts of domestic support that are allowed even though they distort trade — up to 5% of the value of production for developed countries, 10% for developing.”, available at https://www.wto.org/english/thewto_e/glossary_e/de_minimis_e.htm (access on 28.05.2020)

Relations. In addition, sub-branches of these theories have been mentioned and it has been stated that neo-realism and neo-liberalism better explain the WTO system. Therefore, the issue of WTO reform will be examined within the framework of these two theories in the following two subsections.

3.4.1. Realist Theory

Jack Snyder says in the *Foreign Policy* magazine that realism focuses on the shifting distribution of power among states.²⁵⁸ In addition, realism places great emphasis on the concepts of state, national interest, and power. On the other hand, it is known that the concepts of ‘statism’, ‘survival’ and ‘self-help’ are accepted by all realists, too. As stated in the previous sections, neo-realists examine international politics through the structure of the international system rather than human nature.

From this point of view, in this chapter, changing international system among the causes of reform was examined at first. The change of the three-legged international economic system established after the Second World War over time was tried to be explained through four macroeconomic data. At the end of this review, it is seen that the structure of the international economic system has changed, and the share of developing countries has increased. It should also be important to note that the main factor in increasing the shares of developing countries is China. Therefore, it is necessary to evaluate the approach of the United States to the international system in this context. For example, the weight of the United States in the world economy has been steadily decreasing since the end of the Second World War. We can also say this by looking at the power of the United States in the World Bank (the US has 15.42% of total votes²⁵⁹) and the IMF (the US has 16.51% of total votes²⁶⁰). Despite the decreasing weight of the United States in the world economy, it would be

258 Jack Snyder, “*One World, Rival Theories*”, *Foreign Policy*, No. 145 (Nov. - Dec., 2004), p. 53, available at <https://foreignpolicy.com/2009/10/26/one-world-rival-theories/> (Access on 02.06.2020)

259 “International Bank for Reconstruction and Development Voting Power of Executive Directors”, available at <http://pubdocs.worldbank.org/en/329671541106474760/IBRDEDEsVotingTable.pdf> (access on 10.02.2020).

260 “IMF Members' Quotas and Voting Power, and IMF Board of Governors”, available at <https://www.imf.org/external/np/sec/memdir/members.aspx#1> (access on 08.04.2020).

appropriate to say that the United States is the only country with veto power in these two institutions.

In the WTO, the third important leg of the international economic system, the long-standing rise of China disturbs the United States. Therefore, the United States criticizes the industrialized countries that are accepted as developing countries. Because developing country status provides important advantages to countries in international trade. Moreover, the United States occasionally imposes new taxes on imports on the grounds that it threatens national security under Section 232 of the Trade Expansion Act of 1962. On the other hand, the United States has serious concerns about the decisions made by the DSB, and therefore the AB has become dysfunctional since December 2019. In addition, the United States cares about transparency and notification obligations in international trade and demands punishment for countries that do not comply with these rules. To summarize, the United States is trying to protect its national interests in the international system and does not hesitate to use force while following this policy.

When the position of the EU regarding WTO reform is analyzed, it is seen that the EU is sensitive on three main issues such as rulemaking and development, regular work and transparency and dispute settlement, and evaluates WTO reform under these three headings. Communicating with the United States, China, Ottawa Group and other developing countries on the WTO reform, the EU has an important position in this process, but is a victim of realism in harmonizing interests within the Union.

Looking at China, it can be said that China acts as a supporter of the MTS and a representative of the free market economy. As can be seen from the tables in Section 3.2.2., it is understood that China is mostly satisfied with the current global economic system, benefiting from it, and attempting not to lose its existing gains. Therefore, China contributes to the solution of the problem in the DSB, advocates the developing country status and demands continuing the practice of decision-making by consensus. That is, China acts in line with its own needs and interests within the international economic system, and the current international system allows China to act like this.

The Canadian-led Ottawa Group's proposal is similar to that of the EU. As it is known that the EU is already one of the parties to this group. Since the United States and China are not invited to this group and the group is predominantly developing

countries, the proposal of the Ottawa Group is also shaped on this axis. Improving the efficiency and effectiveness of the WTO monitoring function, safeguarding and strengthening the dispute settlement system and modernization of trade rules for the 21st century are the issues that Ottawa Group cares about.

When it is examined other developing countries' position on the WTO reform, these topics come into prominence: the AB problem experienced in the DSB, consensus practice, industrial subsidies, supporting farmers and agricultural sectors by developed countries, developing country status, institutional capacity and human resources within the scope of notification obligations and transparency principle.

For neo-realists, there are two obstacles to international cooperation: "cheating" and "the relative gains of other actors".²⁶¹ Therefore, it is not easy to achieve coordination in the international system. In this regard, each party derives different meanings from the WTO reform statement because each party, by its nature, evaluates WTO reform from its own window and in its own interests. For that reason, it is difficult to harmonize conflicting interests and the WTO reform, which all parties agree, does not seem possible.

3.4.2. Liberal Theory

Liberals say that, unlike realists, states do not act as 'billiard-balls' in the international system. In addition, while realists focus on the balance of power, liberals emphasize international trade and democracy.²⁶² If it comes to neo-liberal institutionalism, it has emerged as a theoretical approach against neo-realism, and neo-liberals claim that cooperation may be possible even within the anarchic

261 Steven L. Lamy, "Contemporary Mainstream Approaches: Neo-realism and Neo-liberalism", John Baylis, Steve Smith, and Patricia Owens, *The Globalization of World Politics: An Introduction to International Relations* (6th Edition). New York, N.Y.: Oxford University Press, 2014, p. 130.

262 Jack Snyder, "One World, Rival Theories", *Foreign Policy*, No. 145 (Nov. - Dec., 2004), p. 60, available at <https://foreignpolicy.com/2009/10/26/one-world-rival-theories/> (Access on 10.06.2020)

international order.²⁶³ Therefore, ‘institutions’ are seen by neo-liberal institutionalists as the mediator and the means to achieve cooperation among actors in the system.²⁶⁴

As it is known, after the Second World War, three important international economic structures were built, and these institutions were aimed to contribute to ensuring global welfare, international peace and security. One of these is the WTO, an international organization that sets the rules of international trade and resolves its disputes. When it is looked at the development of the MTS in the historical process, it is seen that there is a liberal understanding in the foundations of GATT and WTO.

WTO has tried to provide open trade for the benefit of all. For example, S&D treatments specific to LDCs have been implemented, thereby aiming to enable LDCs to integrate into global trade. In addition, free technical support is given to these countries. Moreover, assistance was provided to countries that are members of the WTO and cannot be represented in Geneva. Furthermore, the equal voting rights of each country provided valuable opportunities for developing countries and LDCs in terms of representation and participation since decisions are taken by consensus in the WTO.

Today, the MTS is faced with the biggest challenges it has seen since WWII. Amrita Narlikar, one of the leading academics in the WTO field, agrees with this concern. Nevertheless, Narlikar says that they have motive for some optimism since there is a rich repertoire of WTO reform from different parties and addressing all three functions (negotiation, transparency, and dispute settlement) of the WTO.²⁶⁵

While neo-liberals have argued that cooperation is possible even in the anarchic international order, John J. Mearsheimer has asserted that liberal institutionalists only expect inter-state cooperation if there are significant common

263 Tarık Oğuzlu, “*Liberalizm*”, Ali Balcı ve Şaban Kardaş (ed.) Uluslararası İlişkilere Giriş, İstanbul, Küre Yayınları, 2018, s. 147.

264 Steven L. Lamy, “Contemporary Mainstream Approaches: Neo-realism and Neo-liberalism”, p. 132.

265 Amrita Narlikar, “Reforming the World Trade Organization”, 17 January 2020, The Green Political Foundation, available at https://www.boell.de/en/2020/01/17/reforming-world-trade-organization?dimension1=ds_aupo20#_edn9 (Access on 11.06.2020)

interests between states²⁶⁶. As an interesting example, Putin officials struggled to stabilize the Russian economy during the recession between 2014 and 2017²⁶⁷, and they did not withdraw Russia from the WTO, whose liberal trade rules and institutional framework historically supported the interests of the United States and other Western powers²⁶⁸. When the WTO reform proposals and joint statements are analyzed in this respect, it is seen that many countries or country groups cooperate with different parties on various issues. For example, while the EU, China, Canada and India make common proposal regarding the problems in DSB, the EU shares the same view with the United States and Canada on issues such as transparency and notification obligations.

As a result, it is seen that throughout this Chapter there is a liberal logic in the foundations of the WTO, however realist policies are followed from time to time in the WTO's functioning. From this point of view, it is difficult to explain WTO reform with a single theory of International Relations. Therefore, neo-realism and neo-liberalism complement each other like a 'lock and key model'²⁶⁹.

In summary, there are parties that really want the problems in WTO to be solved and make concrete suggestions about it, and they unite around certain common interests. However, an important question arises here: Do these parties, who come together on various issues and share the same view, have the power to do what they want?

266 Robert O. Keohane & Lisa L. Martin, "*The Promise of Institutional Theory*", *International Security*, Summer, 1995, Vol. 20, No. 1 (Summer, 1995), The MIT Press, p. 39.

267 Pamela A. Jordan, "Diminishing returns: Russia's participation in the World Trade Organization", *Post-Soviet Affairs*, 33:6, 2017, p. 454.

268 Ibid.

269 Lock-and-key model: "The lock and key model theory, first proposed by Emil Fischer in 1894, suggests that the enzyme and the substrate have specific complementary geometric shapes that fit exactly together.", available at <https://www.biologyonline.com/dictionary/lock-and-key-model> (Access on 12.06.2020)

CHAPTER 4

WTO REFORMATION AND TURKEY

In this section, the possible impact of the WTO reform positions, prepared by countries or country groups, on Turkey will be tried to be examined. Thus, “What will be the expected impacts of the WTO reform positions on Turkey?” is one of the research questions of this thesis. In order to answer this question, firstly, it will be given a brief historical background about the relationship between Turkey and the WTO. Secondly, the possible impact of the WTO reform positions on Turkey will be evaluated separately. Thirdly, under the subheading “Approaches to the WTO reformation and Turkey” will be tried to be made a current theoretical discussion.

4.1. Relations between the WTO and Turkey

Turkey is a country that is located at the lands where the continents of Asia, Europe and Africa get closer to each other. Thanks to its unique location, Turkey has hosted to date major trade routes between the East and the West throughout history. When it is looked at the recent history, Turkey has situated within the traditional alliance system was created by the Western countries. In this context, the UN, NATO, the Council of Europe, the OECD, the IMF and the World Bank are international organizations of which Turkey is a member of. In addition, Turkey and the EU are parties of the Customs Union agreement, which entered into force on January 1, 1996. Moreover, Turkey was recognized as a candidate country for EU membership in December 1999. Turkey is also a member of the forum, which is called as the G20, where the world's most developed and developing countries come together.

From the perspective of the international trading system, Turkey has been a contracting party of the GATT since October 17, 1951 and a member of the WTO since March 26, 1995.²⁷⁰ Moreover, Turkey is classified in the developing country status in the WTO. In addition, Turkey's economic relations with the EU has shaped

²⁷⁰ “Turkey and the WTO”, available at https://www.wto.org/english/thewto_e/countries_e/turkey_e.htm (Access on 13.06.2020)

Turkey's foreign trade significantly. After the European Community membership application in 1987, Turkey rereviewed its commitments about reducing tariff rates on European products and ordering external tariffs to the Common Customs Tariff in both 12-year and 22-year schedules.²⁷¹ In 1993, Turkey simplified tariff structure by applying two different rates: the customs tariffs applicable to the imports from the EU/European Free Trade Association (EFTA) countries and MFN rates applicable to other countries.²⁷² Customs duties on processed agricultural products and industrial products was zeroed with the Customs Union between Turkey and the EU, which entered into force on January 1, 1996. In this way, Turkey has begun to implement the EU's Common Customs Tariff to the third countries. As a consequence of these policies, the average tariff was reduced from 27% in 1993 to 13% in 1998.²⁷³

When the latest Trade Policy Review for Turkey by the Secretariat dated February 9, 2016 is examined, it can be seen that the simple average applied rate for agricultural products was 49.1% while for non-agricultural products was 5.5% in 2014.²⁷⁴ As can be looked at 2019 tariff profile of Turkey, it is understood that the simple average MFN applied for agricultural products is 42.3%, while for non-agricultural products is 4.5%.²⁷⁵ Therefore, it is noticed that Turkey has lowered the simple average MFN applied in the intervening five years.

Considering the acceptance of multilateral instruments, Turkey notified the approval of 2005 Protocol Amending the TRIPS Agreement on May 14, 2014 and the acceptance of 2014 Protocol concerning the Trade Facilitation Agreement on March

271 European Commission, "Study of the EU-Turkey Bilateral Preferential Trade Framework, Including the Customs Union, and an Assessment of Its Possible Enhancement", Brussels, 26 October 2016, p. 51., available at http://trade.ec.europa.eu/doclib/docs/2017/january/tradoc_155240.pdf (Access on 13.06.2020)

272 Ibid.

273 "Turkey's trade agreement with the EU leads to improved business environment for all foreign investors and traders", available at https://www.wto.org/english/tratop_e/tpr_e/tp83_e.htm (Access on 13.06.2020)

274 WTO, "Trade Policy Review Report by the Secretariat- Turkey", WT/TPR/S/331, 9 February 2016, p. 53, available at https://www.wto.org/english/tratop_e/tpr_e/s331_e.pdf (Access on 15.06.2020)

275 WTO, "Tariffs and imports: Summary and duty ranges- Turkey", available at https://www.wto.org/english/res_e/statis_e/daily_update_e/tariff_profiles/TR_E.pdf (Access on 15.06.2020)

16, 2016.²⁷⁶ In addition, Turkey is a member of these groups in the negotiations: Asian developing members, G-33, Friends of A-D Negotiations (FANs) and “W52” sponsors.²⁷⁷

In summary, Turkey replaced the import substitution policies with the export oriented economic policy to increase Turkey's integration to the world during the period of Turgut Özal, who became firstly Prime Minister and then the President in the 1980s. For example, Kemal Kirişçi tried to explain the emergence of the trading state in Turkey during the 1980s with Rosecrance's notion of the trading state and Putnam's idea of two-level diplomatic games.²⁷⁸ In addition, Kirişçi states that increasing integration of Turkey's economy into the global economy forced Turkey to become a trading state, and draws attention to the growing importance of economic factors shaping Turkish foreign policy.²⁷⁹ Therefore, it will not be wrong to say that the problems in the WTO, one of the three major international economic organizations, will affect Turkey as well.

4.2. The Expected Impacts of Reform Positions on Turkey

As it was mentioned in Section 3.3., positions on the WTO Reform of the United States, EU, China, Ottawa Group, and other developing countries are provided, respectively. When it is examined at these positions again, it can be clearly said that each party derives different meanings from the statement ‘WTO reform’ since each party considers WTO reform from its own window and within its own interests.

It is clear that Turkey, classified as a developing country in the WTO, will be affected by these reform positions but the answer to the question of how Turkey can be affected by these reform positions is not so explicit. In this section, it will be tried

276 “Turkey and the WTO”, available at https://www.wto.org/english/thewto_e/countries_e/turkey_e.htm (Access on 13.06.2020)

277 Ibid.

278 Kemal Kirişçi, “The transformation of Turkish foreign policy: The rise of the trading state”. *New Perspectives on Turkey*, 40, 2009, 29-57.

279 Ibid.

to find answers to this question and the possible impact of the WTO reform positions on Turkey will be evaluated separately.

4.2.1. US Position

When the statements made by the United States on the WTO reform and the communication and revision papers submitted to the WTO are examined, it is understood that the United States emphasizes three points. Firstly, the United States strongly underlines the developing country status. At this point, Trump criticizes and opposes the evaluation of many industrialized countries as "developing countries" in the WTO system. Turkey is also located in these "developing countries". Therefore, the proposal which was submitted by the United States to limit the practice of developing countries to determine their positions within the framework of the principle of self-determination on February 15, 2019 is conflict with Turkey's interests. Because Turkey, as stated above, is accepted as developing country in the WTO system, and this status provides significant advantages to developing countries.

Secondly, the Dispute Settlement Mechanism, which has been the subject of significant debate in recent years, is an issue highlighted by the United States. As it was mentioned in Section 3.3.1., the United States has blocked the election of new members to the AB consisting of seven members and the existing members' extension of term of office, and the AB has been dysfunctional since December 11, 2019. On the other hand, the dispute settlement mechanism is one of the cornerstones of the MTS, and this mechanism enables the rule-based trading system to work more effectively. In other words, the DSB is a great assurance especially for developing countries and LDCs in the face of an unfair practice of a party in international trade. As a developing country, Turkey will be adversely affected if this mechanism remains dysfunctional.

Thirdly, the United States pays special attention to transparency and notification requirements issues. In addition, the United States demands punishment for countries that do not comply with these rules. Turkey is in a good position in general on this topic although it is known that many countries do not give full notification about this issue. However, the implementation of additional obligations

and severe sanctions regarding this matter to developing countries such as Turkey means to ignore the needs of these countries.

4.2.2. EU Proposal

It can be said that the most enthusiastic side about WTO reform is the EU because it has been trying as much as possible to reach a compromise between parties with different approaches. In addition, the EU makes joint statements and common proposals with different parties on various issues. For this reason, it is comprehended that the EU pursues a flexible policy in line with its own interests. That is, the EU focuses on three main areas.

Firstly, the EU is very sensitive about rule making and development practices. In this regard, the EU makes various suggestions in order to adapt to changing conditions and to create a fair competition in the market. These recommendations are to improve transparency and subsidy notifications, better capturing state-owned enterprises (SOEs), and more effectively the most trade-distortive types of subsidies.²⁸⁰ In addition, the EU emphasizes the need to address the issues of market access barriers, discriminatory treatment of foreign investors, including those related to forced technology transfer and other trade distortive policies.²⁸¹ To cite specifically Turkey, the goal of this article is not Turkey. On the other hand, in terms of technology transfer, some special cases of these countries should be taken into consideration in order to develop the technology capacities of developing countries.

Secondly, the EU calls attention to the importance of regular work and transparency. For example, the EU states that while allocating important resources to make complete and timely notifications, the important trade partners of the EU do not comply with these obligations sufficiently.²⁸² To handle this problem, as mentioned in Section 3.3.1., the EU proposes a number of technical arrangements to improve or establish the practices regarding notifications. As with the revision request submitted

280 European Union, “WTO modernization: Introduction to future EU proposals”, Concept Paper, 18 September 2018, pp. 4-5, available at http://trade.ec.europa.eu/doclib/docs/2018/september/tradoc_157331.pdf (access on 10.04.2020)

281 Ibid., pp 5-6.

282 Ibid., p. 9.

on March 29, 2019²⁸³, these suggestions include sanctions against countries that do not follow the rules. Turkey's position and approach on topics of transparency and notification obligations was mentioned in the previous subheading. Therefore, whether the reservations of developing countries are considered will determine how Turkey will be affected by this matter.

Thirdly, the EU remarks the significance of the dispute settlement mechanism. As it is known, as of mid-2017, the number of members of the AB has dropped to three, since the United States has blocked the election of new members to the AB consisting of seven members and the existing members' extension of term of office. For this reason, the EU has worried about this situation. Therefore, as described in Section 3.3.2., the EU has made many suggestions for the solution of this problem. Finally, the EU participated in the proposal “Multi-party Interim Appeal Arbitration Arrangement Pursuant to Article 25 of the DSU”²⁸⁴ with other 18 parties to overcome the current paralysis of the WTO’s AB and solve trade disputes amongst the WTO Members on April 30, 2020. Consequently, in the matter of solving the problem, Turkey is considered to be positively affected by the proposal, led by the EU.

4.2.3. Chinese Proposal

China published two important documents on the WTO Reform: “China's Position Paper on WTO Reform” on November 23, 2018 and “China's Proposal on WTO Reform” on May 13, 2019. When these two documents are examined, it is seen that China underlines four points. The first principle for China is preserving the core values of the MTS. These values can be listed as non-discrimination and openness. When is looked from the perspective of Turkey, Turkey's Trade Minister Ruhsar Pekcan said this: “Turkey is a staunch supporter of the multilateral trading system. We see WTO reform discussions as an opportunity to strengthen the organization by

283 “Procedures to Enhance Transparency and Strengthen Notification Requirements under the WTO Agreements”, JOB/GC/204/Rev.1, 29 March 2019, pp. 1-3.

284 Council of the EU, “Council approves a multi-party interim appeal arbitration arrangement to solve trade disputes”, 15 April 2020, available at <https://www.consilium.europa.eu/en/press/press-releases/2020/04/15/council-approves-a-multi-party-interim-appeal-arbitration-arrangement-to-solve-trade-disputes/> (access on 20.05.2020)

keeping it up-to-date”²⁸⁵ in the G20 Ministerial Meeting on Trade and Digital Economy on 8-9 June 2019, at the Ibaraki Prefecture in Japan. Therefore, it is considered that Turkey have similar views with China in the context of the protection of the multilateral trading system.

The second one is to safeguard the development interests of developing countries. China advocates the importance of developing country status and states that this status cannot be determined by others and this status has been granted by the WTO agreements. Especially considering Trump's criticism is taken into account, it is seen that Turkey and China are met on common ground. Because despite being a member of the G20, such as China, Turkey is classified in the developing country status in the WTO and this status gains favor to Turkey.

The third one for China is to follow the practice of decision-making by consensus. As it is remembered from previous sections, a consensus is reached at “if no Member, present at the meeting when the decision is taken, formally objects to the proposed decision”. The consensus practice is valuable for smaller countries, as it increases negotiation leverage in informal consultations and bargains before deciding, especially if they can form coalitions.²⁸⁶ Although China and Turkey are not defined as a small country, it can be said that they share similar views on consensus practice.

The last one is to handle the current crisis or problems faced by the WTO. One of the top priorities for China is the current issue with the DSU. Regarding this issue, China was a side of the document related to the concerns of countries or country group such as the EU, Canada, and India about the dispute settlement mechanism on December 10, 2018.²⁸⁷ As can be seen from the previous subsections, all members except the United States have the similar intention to solve the problem in the dispute

285 “Turkish minister warns against ‘protectionism’ at G20 summit”, 9 June 2019, available at <https://www.hurriyetdailynews.com/turkish-minister-warns-against-protectionism-at-g20-summit-144034> (Access on 18.06.2020)

286 Bernard Hoekman, “The WTO: Functions and Basic Principles” in *Development, Trade, and the WTO: A Handbook*, edited by Bernard Hoekman, Aaditya Mattoo, and Philip English, Washington, D.C.: the World Bank, 2002, p. 46.

287 The EU, China, Canada, India, Norway, New Zealand, Switzerland, Australia, Republic of Korea, Iceland, Singapore, Mexico and Costa Rica, “Communication from the EU, China, Canada, India, Norway, New Zealand, Switzerland, Australia, Republic of Korea, Iceland, Singapore, Mexico and Costa Rica to the General Council”, WT/GC/W/752/Rev.1, 10 December 2018, p. 1.

settlement system. Turkey is one of the WTO members with similar intentions about the solution of the problems in this system.

4.2.4. Ottawa Groups' Proposal

Like the EU and China, Canada considers the WTO faces serious problems. For this reason, Jim Carr, Canadian Minister of International Trade Diversification, invited 12 WTO Members (Australia, Brazil, Canada, China, Chile, Colombia, Costa Rica, the EU, Guatemala; Hong Kong, China; Iceland, Mexico, New Zealand, Norway, Pakistan, Singapore, Switzerland, Ukraine and Uruguay) to Ottawa on October 24 and 25, 2018. When a white paper, published by Canada on September 24, 2018, and Joint Communiqué and statements of the Ottawa Group, gathered on October 24-25, 2018 and January 24, 2019 are evaluated together, the Ottawa Group focuses on three points.

The first one is to improve the efficiency and effectiveness of the WTO monitoring function.²⁸⁸ To achieve this, these three areas are considered: “improving the notification and transparency of local measures”, “advancing the capacity and opportunity for deliberation”, and “developing the opportunities and mechanisms to address specific trade concerns”.²⁸⁹ As it is known that Turkey is generally in a good position on notification requirements, this provision of the white paper is evaluated not to be adversely affecting Turkey.

The second one is to safeguard and strengthening the dispute settlement system (covering to update and ensure appellate review).²⁹⁰ The Ottawa Group also states that the WTO rules must be updated to reflect the realities of the 21st century, such as the Sustainable Development Goals.²⁹¹ In the matter of solving the problem in the AB,

288 Canada, “Strengthening and Modernizing the WTO: Discussion Paper”, JOB/GC/201, 24 September 2018, pp. 1-8.

289 Ibid.

290 Ibid.

291 The Ottawa Group, “Joint Communiqué of the Ottawa Ministerial on WTO Reform”, 25 October 2018, available at https://www.wto.org/english/news_e/news18_e/dgra_26oct18_e.pdf (access on 20.06.2020)

which is the main pillar of the MTS, Turkey is thought to be positively affected by the Ottawa Group proposal, led by Canada.

The third one is to renovate the negotiating function of the WTO (including to handle unfinished and pending business, and underlying to aware of market distortions caused by subsidies and other instruments).²⁹² The expression “market distortions caused by subsidies and other instruments” needs to be explained a bit more because developed countries that have completed their level of development have given ample incentives for their industries in the past. Therefore, if this issue is to be addressed to developing countries as a criticism, this approach of the Ottawa Group will negatively affect developing countries such as Turkey.

4.2.5. Other Developing Countries’ Proposal

Developing countries within the multilateral trading system constitute two thirds of the WTO members. Accordingly, developing countries will be the biggest addressee of possible WTO reform or any important changes to be made in the WTO. As stated in Section 3.3.5., although developing countries have a fragmented structure on WTO reform, it is occurred that seven issues stand out in the positions of developing countries in general.

To summarize them briefly, firstly, developing countries want to resolve the AB problem experienced in the DSB. Secondly, developing countries have not sympathy for any form of decision making that will undermine the consensus practice in the WTO. Thirdly, developing countries criticize the approaches of developed countries on industrial subsidies. Fourthly, developing countries would like to remove the imbalance in agricultural subsidies that arise due to unfair provisions in the Agreement on Agriculture. Fifthly, regarding the developing country status, developing countries claim that the determination of the level of development is guaranteed during the establishment of the WTO and there is a right that the members can be determined by themselves. Sixthly, developing countries consider that the preparation of notifications within the scope of transparency principle is related to the institutional capacities and human resources of these countries; for this reason, it is

292 Ibid.

not accepted that developing countries, which have restrictions on this issue, are subject to criminal sanctions in cases where they cannot notify. Lastly, developing countries promote the debate of WTO topics such as facilitating investments, e-commerce, and integration of SMEs in global trade, but they also would like to keep the long-standing issues in the field of agriculture and development on the agenda.

In the light of the above information, it can be clearly said that this proposal and Turkey's interests largely coincide. In particular, it is evaluated that the reform issues like the continuation of the developing country status, the solution of the problem in the DSB and the importance of not imposing additional obligations on the notifications prepared within the framework of the principle of transparency take an important place for Turkey.

4.3. Approaches to the WTO Reformation and Turkey

In Section 2.6., which is called as “Approaches to the WTO System”, the WTO system has tried to be examined through realist and liberal theories of International Relations. In addition, sub-branches of these theories have been mentioned and it has been stated that neo-realism and neo-liberalism better explain the WTO system. In Section 3.4, named “Approaches to the WTO Reformation”, the issue of WTO reform was examined within the framework of neo-realism and neo-liberalism.

In this section, it is basically analyzed the possible impact of reform proposals, mentioned in the third section, on Turkey. In this subsection, the WTO reform will be examined within the framework of the above theories. In this way, it will be contributed to the continuity of the theoretical approaches in the thesis study.

4.3.1. Realist Theory

As it was mentioned in section 2.6.1., it was stated that neorealists examine international politics through the structure of the international system. The changes in the structure of the international system were explained in detail in section 3.2. Subsequently, the positions of the parties on the WTO reform were introduced. The possible impact on Turkey of these positions, which have been put forward by these parties, were examined in this section.

Regarding the positions on the WTO Reform of the United States, EU, China, Ottawa Group, and other developing countries, each party derives different meanings from the statement WTO reform because each party, by its very nature, considers WTO reform from its own window and within its own interests. For example, it is seen that there are significant differences of interests between Turkey's status and the United States' approach when the United States' position is analyzed. When it is looked at the United States perspective, the United States is trying to protect its national interests in the international system and does not hesitate to use force while following this policy. In the context of the WTO reform discussion, the policies of the United States are considered to have the potential to harm the national interests of Turkey.

In the meantime, China has been a strong advocate of free trade and supported the MTS since China's participation in the WTO (2001).²⁹³ As it was remembered from section 3.3.3., “China is in fact a beneficiary of the current international system, and the process of reform and opening up continues to adapt China's domestic conditions to better fit this global order”²⁹⁴. As it can be understood from this statement, China wants to make changes through reforms rather than making major revolutionary changes in the current international order. Therefore, the interests of the United States conflict with the proposals of China, which is classified as a developing country. On the other hand, it is seen that Turkey and China share similar views on the WTO reform as well. However, China should also be evaluated considering that it is not an ordinary developing country in the context of the WTO reform discussions. Accordingly, although developing countries have a fragmented structure on WTO reform, Turkey's national interests largely coincides with other developing countries' positions.

As a result, when looking at the current MTS, it is seen that there is a balance of power among the United States, China and the EU. The efforts of these major powers to increase their own power within the system will shape the new structure of

293 The State Council Information Office of China, “China and the World Trade Organization”, June 2018, Beijing: Foreign Languages Press, p. 3., available at http://english.scio.gov.cn/2018-06/28/content_53822671.htm (access on 21.06.2020)

294 Lan Xinzhen, “Reforming the International Order”, Beijing Review, 8 February 2018, available at http://www.bjreview.com/World/201802/t20180202_800116313.html (access on 21.06.2020)

the WTO. However, as of now, there is no state alone that can ensure the enforcement of the rules and the continuation of the current order. In addition, current Director-General Roberto Azevedo stated that he will leave his position on August 31, 2020, even though his term of office will be expired next year. Subsequently, the candidacy process began in the WTO and eight candidates were nominated to become the WTO Director-General. Thus, how the WTO reform will be shaped will depend to some extent on the perspective of the new Director-General and his/her vision for the future.

4.3.2. Liberal Theory

In section 3.4.2., it was stated that liberals say that, unlike realists, states do not act as ‘billiard-balls’ in the international system. However, neo-liberals also recognize that states as “rational or instrumental actors, always seeking to maximize their interests in all issue-areas”.²⁹⁵ Therefore, evaluation of the possible impact of the WTO reform positions on Turkey is seen natural by neoliberals. In addition, as it is known, neoliberals claim that states can increase their absolute gains through cooperation. In this regard, the countries that make joint declarations and common statements consider that they can increase their mutual benefits through cooperation. The EU is a good example of this understanding because it would be seen that the EU makes joint statements and common proposals with different parties on various issues. In the context of neo-liberal theory, Turkey also can cooperate with other parties in order to enhance its own absolute gain.

Neoliberals attach importance to institutions and global governance issues. Because neoliberals think that these institutions act as mediators in the international system and direct the behavior of states. In this respect, Turkey has been a supporter of the rule-based, free and fair MTS. In addition, as Trade Minister Ruhsar Pekcan said, Turkey consider the WTO reform discussions an opportunity to strengthen the WTO by enabling it to arrange to the requirements of nowadays.²⁹⁶ Therefore, when

295 Steven L. Lamy, “Contemporary Mainstream Approaches: Neo-realism and Neo-liberalism”, John Baylis, Steve Smith, and Patricia Owens, *The Globalization of World Politics: An Introduction to International Relations* (6th Edition). New York, N.Y.: Oxford University Press, 2014, p. 133.

296 “Turkey staunchly supports free, fair, multilateral trade”, 21 January 2020, available at <https://www.dailysabah.com/op-ed/2020/01/21/turkey-staunchly-supports-free-fair-multilateral-trade> (Access on 27.06.2020)

Turkey's position in world trade is taken into consideration, the maintenance of the rule-based MTS is important for Turkey.

Neo-liberal institutionalists are more concerned with low politics and they focus on economy, environment and social issues. According to Steven Lamy, neo-liberal institutionalists claim that foreign policy is about managing complex interdependence and several processes of globalization. In the context of the WTO reform, it is observed that the world needs global governance and cooperation day by day. Trade wars between the United States and China, weakening of centrist political parties in Europe after Euro crisis, possible effects of Brexit, increasing authoritarian trends worldwide, immigrant issues and global problems with local origins increase this need for global governance and cooperation.

Considering the increasing protectionism among countries after the COVID-19 pandemic, disruption of global value chains (albeit for a while) started a discussion about the future of the MTS. For example, before the pandemic, while the cheapness of the goods is in the foreground, it is estimated that this situation may shift to reliable logistics. From the perspective of Turkey, Turkey constitutes almost 1% of the world population and the world economy, and Turkey is the biggest economic power of its nearby geography. In this way, Turkey could increase its trade volume with countries in its nearby geography within the framework of interdependence.

In summary, in a broad sense, Turkey's active participation in the WTO reform efforts will pave the way to defense of its own interests in the MTS. On the other hand, it is known that world trade is shifting towards the East, and China ranks first in some of the macroeconomic indicators and second in the others. As can be remembered from the previous subsections, it cannot be said that this does not bother the United States. Mehmet Ögütçü, who gave his opinion to Foreign Policy Institute on July 16, 2020, made a prediction about the future: "In the coming period... there will be a Cold War between the USA and China, and both the US and China will try to pull the countries like Turkey to their side in the Cold War."²⁹⁷ Accordingly, consideration of Turkey's national interests and cooperation possibilities with the changing balance of power would be beneficial for Turkey in the WTO reform efforts.

297 "Diplomasi ve Dış Politika Konuşmaları : Prof.Dr.Hüseyin Bağcı ve Diplomat Mehmet Ögütçü", available at <https://www.youtube.com/watch?v=a3yGj2dySaw> (Accessed on 18.07.2020)

CHAPTER 5

CONCLUSION

Although the WTO is a relatively young international organization at the age of 25, its roots go back to the Bretton Woods conference in July of 1944. Because this conference aimed to establish the following economic institutions: the International Bank for Reconstruction and Development (or the World Bank), the IMF, and the ITO. On the other hand, even though the Havana Charter was signed by 53 of the 56 countries, it was never ratified. Because of the domestic opposition in the US, the agreement never came into existence and the formation of the ITO failed. Instead, the GATT was signed in 1947. The GATT was applied through a Protocol of Provisional Application on and after 1 January 1948. In this way, the GATT 1947 remained provisionally in effect until its provisions became part of the GATT 1994 which is an element of the WTO Agreement since the Havana Charter never entered into force. During eight rounds of trade negotiations from 1947 to 1995, rules for MTS were developed by the GATT, and the GATT 1947 was replaced by a new organization: the WTO. This was a milestone of international economic system.

The WTO is of great importance since it is the only international organization where global rules of trade are set and disputes are resolved. As of January 2020, the WTO has 164 members and accounts for 98% of world trade, and a total of 22 countries are negotiating membership.²⁹⁸ In addition, the WTO agreements are legal texts covering agriculture, telecommunications, government purchases, textiles and clothing, intellectual property rights, industrial standards and product safety, banking, and food sanitation regulations and much more. Therefore, ‘WTO Reform and Turkey’ are determined as a thesis topic in order to limit the working area for this thesis study.

²⁹⁸ “WTO in Brief”, available at https://www.wto.org/english/thewto_e/whatis_e/inbrief_e/inbr_e.htm#wto_secretariat (access on 25.07.2020).

A theory is a series of ideas that clarifies the complexity of the world and offer suggestions on how to define key forces and actors within it.²⁹⁹ So, theories are like sunglasses with different-colored lenses; if you wear the blue pair, the world looks blue, whereas if you wear the yellow pair, the world looks yellow.³⁰⁰ In other words, theories enable social realities to be viewed from different perspectives. International Relations theories generally deal with international organizations in two ways: The first one is the theoretical explanation of the establishment of organizations, while the other one is the theoretical explanation of organizational behavior. In this thesis, the second way was followed, and it was tried to be made the theoretical explanation of the behavior of the WTO, an international organization. For this, two major theories of International Relations, realism and liberalism (especially neo-realism and neo-liberalism), were chosen as theoretical approaches and the WTO system was examined through their contribution to the field of international organizations.

When it is looked at the outline of the thesis, it can be clearly seen that there are three main sections: 2) World Trade Organization, 3) WTO Reformation, and 4) WTO Reformation and Turkey. In order to better understand the topic, firstly, the WTO was explained. A brief historical journey, from the middle of the 18th century to the signing of the GATT and then to the establishment of the WTO, was mentioned. Afterwards, the WTO structure, WTO decision-making process, basic principles of the WTO, exceptions to basic rules of the WTO were discussed. At the end of the section, the WTO system was tried to comprehend and explained with aforesaid theories of International Relations.

In the third section, first of all, the concept of ‘reform’ was highlighted, and the first research question of the thesis study was raised as follows: Does the WTO system need reform? After answering this question as “yes”, the second research question was asked: Why does the WTO system need reform? The reasons for the WTO reform was given under six headings and these are respectively: 1) Changing international system, 2) Description of ‘developing countries’, 3) Dispute Settlement

299 Ian Hurd, *International organizations: politics, law, practice* (6th Edition). Cambridge, UK: Cambridge University Press, 2014, p. 28.

300 John Baylis, Steve Smith, and Patricia Owens, *The Globalization of World Politics: An Introduction to International Relations* (6th Edition). New York, N.Y.: Oxford University Press, 2014, p. 3.

Body, 4) Representation & Participation, 5) Transparency & Notification, and 6) Regional Trade Agreements. In addition, the positions of the US, the EU, China, Ottawa Group, and other developing countries, including their views and recommendations on WTO reform, was analyzed under this chapter as well. Finally, WTO reform was explained through two mainstream International Relations theories.

In the fourth section, the possible impact of the WTO reform positions, prepared by countries or country groups, on Turkey was tried to be examined. Thus, “What will be the expected impacts of the WTO reform positions on Turkey?” is the third research question of this thesis. In order to answer this question, firstly, it was given a brief historical background about the relationship between Turkey and the WTO. Secondly, the possible impact of the WTO reform positions on Turkey was evaluated separately. Lastly, it was tried to be made a current theoretical discussion.

Today, MTS is faced with the biggest challenges it has seen since WWII, and it is concluded that WTO reform is necessary in this thesis. The reasons for the reform are listed above as well. The changing international system is one of the best examples of these motives. After World War II, the concept of the bipolar world has been increasingly replaced by the ‘multipolar world order’ since the 1990s. Therefore, difficulties have emerged in global governance.

Throughout this thesis, it is seen that there is a liberal logic in the foundations of the WTO, however realist policies are followed from time to time in the WTO's functioning. From this point of view, it is difficult to explain WTO reform with a single theory of International Relations. Therefore, neo-realism and neo-liberalism complement each other like a ‘lock and key model’ for this study. However, this does not mean that the WTO system works in favor of developed countries. Various data, retrieved from the databases UNCTAD, WTO, IMF, and WEO, and figures related to them show that the share of developing countries in MTS is increasing in many respects. The Chinese factor is of great importance in the realization of this increase because China benefits from the advantages of being in developing country status. Therefore, the long-standing rise of China (e.g. China's average annual growth rate of GDP was around 9.5% between 1980 and 2018.) disturbs the United States. On the other hand, it is known that world trade is shifting towards the East, and China ranks first in some of the macroeconomic indicators and second in the others. Accordingly,

‘trade wars’ are not a new phenomenon and the United States is now trying to maintain its place on a global scale. Nevertheless, it can be said that the most enthusiastic side about WTO reform is the EU because it has been trying as much as possible to reach a compromise between parties with different approaches. However, the current process poses problems for the institutional integrity of the EU and weakens the power of the EU to determine WTO reform.

To sum up, when viewed in terms of Turkey, classified as a developing country in the WTO, Turkey's active participation in the WTO reform efforts will pave the way to defense of its own interests in the MTS. If this does not happen, as analyzed in the thesis, Turkey will continue to be evaluated in a passive way. The answer to the question "What will be the expected impacts of the WTO reform positions on Turkey?" will mostly be sought in the proposals and positions of other countries and/or country groups. Therefore, whether the reservations of developing countries are considered will determine how Turkey will be affected by this matter. As a Spanish proverb says, “Traveler, there are no roads. Roads are made by walking.”³⁰¹

301 Kissinger, Henry. *Diplomacy*, New York: Simon & Schuster, 1994, p. 835.

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WTO Agreement, Annex 2 Dispute Settlement Understanding Article XVII:2, Apr. 15, 1994, 1867 U.N.T.S. 154, 33 I.L.M. 1144 (1994)

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APPENDICES

A. TURKISH SUMMARY/TÜRKÇE ÖZET

Lübnanlı ve Fransız yazar Amin Maalouf, “Çivisi Çıkmış Dünya” kitabında günümüz dünyasına ilişkin endişelerini şu şekilde ifade etmektedir:

“İnsanlık, evriminin günümüzdeki evresinde, tarihte eşine rastlanmayan yeni tehlikelerle karşı karşıya ve bunlar yepyeni küresel çözümler gerektiriyor; yakın gelecekte bu çözümler bulunmazsa uygarlığımızı büyük ve güzel kılan şeylerden geriye hiçbir şey kalmayacak; kaldı ki, bugüne dek, insanların farklılıklarını aşacağını, düş gücüne dayanan çözümler geliştireceğini, ardından onları hayata geçirmek adına birleşip seferber olacağını ummamızı sağlayabilecek pek az ipucu var; hatta belirtilere bakılırsa dünyanın çivisinin çıkması sürecinde ileri bir evreye geldiği ve bir gerilemenin önüne geçmenin artık güç olduğu düşünülebilir.”³⁰²

Bu tez bağlamında, Amin Maalouf’un bahsettiği tarihte eşine rastlanmayan yeni tehlikelerden biri olarak, Dünya Ticaret Örgütünde (DTÖ) yaşanan ciddi sorunlar ileri sürülmektedir. Bu sorunlara değinmeden önce, DTÖ’nün öneminden kısaca bahsetmek yerinde olacaktır. Ian Hurd’un dediği gibi, “Uluslararası politika, uluslararası örgütleri düşünmeden anlaşılabilir ve uluslararası örgütler de hem yasal hem de siyasi yönleri düşünülmeden anlaşılabilir.”³⁰³ İkinci Dünya Savaşı’ndan sonra üç ana uluslararası ekonomik yapı inşa edilmiş ve bu kurumların küresel refah, uluslararası barış ve uluslararası güvenliğin sağlanmasına katkıda bulunmaları amaçlanmıştır. Bunlardan biri Uluslararası Ticaret Örgütü (ITO) olmuş; bu örgütün kurulabilmesi için hazırlanan Havana Şartı ise 56 ülkenin 53’ü tarafından imzalanmış olmasına rağmen asla onaylanmamıştır. Çünkü Amerika Birleşik Devletlerindeki iç muhalefet nedeniyle anlaşma asla gerçekleşmemiş ve ITO'nun oluşumu için yapılan girişimler başarısızlıkla sonuçlanmıştır. Bunun yerine 1947 yılında Gümrük Tarifeleri

302 Amin Maalouf, *Çivisi Çıkmış Dünya*, trans. Orçun Türkay, İstanbul: Yapı Kredi Yayınları, 2019, p. 12-3.

303 Ian Hurd, *International organizations: politics, law, practice* (6th Edition). Cambridge, UK: Cambridge University Press, 2014, p. 7.

ve Ticaret Genel Anlaşması (GATT) imzalanmıştır. GATT, 1 Ocak 1948 ve sonrasında Geçici Uygulama Protokolü ile uygulanmıştır. Bu şekilde GATT 1947, GATT 1994'ün bir parçası olana kadar geçici olarak yürürlükte kalmıştır. Havana Şartı hiçbir zaman yürürlüğe girmediğinden 1947'den 1995'e kadar çok taraflı ticaret sistemi (MTS) için kurallar GATT tarafından geliştirilmiştir ve 1995 yılında Marakeş Anlaşması ile kurulan ve ticareti yavaş yavaş serbest bırakmayı amaçlayan hükümetlerarası bir örgüt olan DTÖ, GATT 1947'nin yerini almıştır. Bu olay, uluslararası ekonomik sistemde bir dönüm noktası olmuştur.

DTÖ küresel ticaret kurallarının belirlendiği ve buna ilişkin anlaşmazlıkların çözümlendiği tek uluslararası kuruluş olduğundan büyük öneme sahiptir. Ocak 2020 itibariyle, DTÖ'nün 164 üyesi bulunmakta ve dünya ticaretinin % 98'ini oluşturmaktadır. Ayrıca, anılan tarih itibariyle, toplam 22 ülke de üyelik için müzakerelerde bulunmaktadır.³⁰⁴

Yukarıdaki bilgiler ışığında, DTÖ üzerinde çalışmaya değer bir konudur. Bununla birlikte, DTÖ anlaşmaları tarım, telekomünikasyon, kamu alımları, tekstil ve giyim, fikri mülkiyet hakları, endüstriyel standartlar ve ürün güvenliği, bankacılık ve gıda güvenliği düzenlemeleri ve çok daha fazlasını kapsayan yasal metinlerden oluşmaktadır. Bu yüzden, bu tez için çalışma alanını sınırlandırmak amacıyla, tez konusu “DTÖ Reformu ve Türkiye” olarak belirlenmiştir. Bunun dışında, bu konunun seçilmesinin üç nedeni daha bulunmaktadır. Birincisi, DTÖ sistemindeki sorunların tarihsel arka planı olmasına rağmen DTÖ reformu tartışması güncelliğini koruyan yeni bir konudur. İkincisi, literatür incelendiği zaman görülmektedir ki “DTÖ reformu ve Türkiye” daha önce çalışılmamış bir konudur. Üçüncüsü, yine literatüre bakıldığı zaman DTÖ reformunun Uluslararası İlişkiler teorileri bağlamında pek fazla çalışılmadığı anlaşılmaktadır.

Kuramsal açıdan bakıldığında; teori, dünyanın karmaşıklığını açıklığa kavuşturan ve içindeki kilit güçlerin ve aktörlerin nasıl tanımlanacağına dair öneriler sunan bir dizi fikirdir.³⁰⁵ Yani, teoriler farklı renkli lenslere sahip güneş gözlükleri

304 “WTO in Brief”, available at https://www.wto.org/english/thewto_e/whatis_e/inbrief_e/inbr_e.htm#wto_secretariat (access on 25.07.2020).

305 Ian Hurd, *International organizations: politics, law, practice* (6th Edition). Cambridge, UK: Cambridge University Press, 2014, p. 28.

gibidir; mavi çifti giyerseniz, dünya mavi görünür, sarı çifti giyerseniz, dünya sarı görünür.³⁰⁶ Başka bir deyişle, teoriler sosyal gerçekliklere farklı perspektiflerden bakılmasını sağlamaktadır. Uluslararası İlişkiler teorileri ise genellikle uluslararası örgütler ile iki şekilde ilgilenmektedir: Birincisi, örgütlerin kuruluşunun teorik açıklaması, ikincisi ise örgüt davranışlarının kuramsal açıklamasıdır. Bu tezde ikinci yol izlenerek, uluslararası bir organizasyon olan DTÖ'nün davranışının teorik açıklaması yapılmaya çalışılmıştır. Konuya teorik açıdan yaklaşabilmek için Uluslararası İlişkilerin iki ana teorisinden olan, realizm ve liberalizm temel alınmıştır. Bununla birlikte, realizm kendi içinde klasik realizm, neo-realizm ve neo-klasik realizm ekseninde; liberalizm ise cumhuriyetçi liberalizm, ticari liberalizm, sosyolojik liberalizm ve kurumsalcı liberalizm (veyahut neo-liberal kurumsalcı liberalizm) çerçevesinde incelenmiş ve DTÖ sisteminin neo-realizm ve neo-liberalizm ile daha iyi anlaşılabilmesi ve açıklanabileceği sonucuna varılmıştır.

Bu tez çalışmasında, üç ana araştırma sorusu sorulmuştur. Bunlar sırasıyla: 1) DTÖ sisteminde reforma ihtiyaç duyulmakta mıdır?, 2) DTÖ sisteminin neden reforma ihtiyacı vardır?, 3) DTÖ reformu üzerine ülke veya ülke grupları tarafından sunulan pozisyon ve önerilerin Türkiye üzerindeki beklenen etkileri neler olacaktır? (Tez çalışmasında; “her önerinin bir pozisyon oluşturduğu fakat her pozisyonun bir öneri oluşturmadığı” anlayışından yola çıkılarak, ‘pozisyon’ kavramının önerileri kapsayacak şekilde kullanıldığı burada ifade edilmesi yerinde olacaktır.) Bu üç ana araştırma sorusunun yanı sıra, on altı alt araştırma sorusuna da bu tez çalışmasında cevap aranmaya çalışılmıştır. Bunlardan birkaçı ise şunlardır: 1) Çin gerçekten gelişmekte olan ülke midir?, 2) Gelişmekte olan ülkeler, DTÖ reformu hakkında tek ses halinde konuşabiliyorlar mıdır?, 3) Bölgesel Ticaret Anlaşmaları çok taraflı ticaret sistemi için atlama taşları mıdır yoksa bu sistemin engelleri midir?, 4) Amerika Birleşik Devletlerinin, uluslararası sistem üzerindeki anlaşmazlıkların Halli Mekanizmasına olan yaklaşımı bir politika değişikliği olarak yorumlanabilir mi?

Yukarıda öne sürülen araştırma sorularına tez çalışmasında cevap bulabilmek için nicel ve nitel araştırma yöntemleri kullanılmıştır. Birleşmiş Milletler Ticaret ve Kalkınma Konferansı (UNCTAD), Dünya Ekonomik Görünümü (WEO), Uluslararası

306 John Baylis, Steve Smith, and Patricia Owens, *The Globalization of World Politics: An Introduction to International Relations (6th Edition)*. New York, N.Y.: Oxford University Press, 2014, p. 3.

Para Fonu (IMF) ve DTÖ veritabanlarından çeşitli veriler çekilmiş ve bunların bir kısmı tablolar halinde tezin içinde sunulmuştur. Ayrıca, araştırma konusunun daha iyi anlaşılabilmesi adına resmi belgeler ve yasal metinlerden oluşan birincil kaynaklar esas alınmıştır. Bunu sağlayabilmek için DTÖ'nün internet sitesi, DTÖ çevrim içi belgeleri ve DTÖ'nün çevrim içi kurslarından yararlanılmıştır. Ayrıca, DTÖ reformuna ilişkin pozisyonlarını ortaya koyan ülke ve ülke gruplarından başlıcalarını oluşturan Amerika Birleşik Devletleri, Çin Halk Cumhuriyeti, Avrupa Birliği, Kanada'nın liderliğinde 13 ülke ve ülke grubundan oluşan Ottawa Grubu ve diğer gelişmekte olan ülkeler tarafından ortaya koyulan resmi belgeler, basın açıklamaları ve tebliğler de incelenmiştir. Bununla birlikte, konuya ilişkin literatür taraması sonucunda elde edilen bilgilerden yararlanılmıştır. Son olarak, birçok ülkede bulunan sivil toplum kuruluşlarının yayımladıkları raporlardan ve uluslararası medyada yer alan haberlerden de istifade edilmiştir.

DTÖ'nün önemi, tezin teorik çerçevesi, araştırma soruları ve araştırma yöntemine ilişkin bilgilerden sonra tezin iskeletinden bahsetmek yerinde olacaktır. "DTÖ Reformu ve Türkiye" isimli bu tez çalışması üç ana başlıktan oluşmaktadır ve bunları sırasıyla: 2) Dünya Ticaret Örgütü, 3) DTÖ Reformu ve 4) DTÖ Reformu ve Türkiye'dir. Tez konusunun daha iyi anlaşılabilmesi için ilk olarak DTÖ'nün anlatılması faydalı görülmüştür. Bu ise, girişte kısaca bahsedildiği üzere, 'Dünya Ticaret Örgütü' başlığı altında 18. yüzyıl ortasından GATT'ın imzalanmasına ve sonrasında DTÖ'nün kuruluşuna kadar uzanan kısa tarihsel yolculuk hakkında bilgi verilerek yapılmıştır. Ardından, DTÖ'nün yapısını oluşturan Bakanlar Konferansı, Genel Kurul, Anlaşmazlıkların Halli Organı, Ticaret Politikalarını Gözden Geçirme Organı, Konseyler (Mal Ticareti, Hizmet Ticareti ve Ticaretle İlgili Fikri Mülkiyet Hakları), Kurullar ve Komiteler incelenmiştir. Daha sonrasında, DTÖ'nün karar alma süreci hakkında bilgi verilmiş ve iki önemli uluslararası ekonomik örgüt olan IMF ve Dünya Bankası ile DTÖ arasında da küçük bir karşılaştırma yapılmıştır. Buna ek olarak, DTÖ'nün temel kuralları olarak bilinen 'ayrımcılık yapmama', 'daha açık ve öngörülebilir ticaret', 'şeffaflık' ve 'en az gelişmiş ülkeler için özel muamele' ilkelerinden sırasıyla bahsedilmiş ve sonraki başlıkta bu temel kurallara ilişkin istisnaları oluşturan 'genel istisnalar', 'bölgesel ticaret anlaşmaları', 'diğer istisnalar' ile 'ticarete ilişkin yasal haklar ve feragat' hükümleri açıklanmıştır. Bölümün

sonunda, DTÖ sistemi söz konusu Uluslararası İlişkiler teorileri ile anlaşılmaya ve açıklanmaya çalışılmıştır.

Üçüncü bölüm olan 'DTÖ Reformu'nda, her şeyden önce, 'reform' kavramı vurgulanmış ve tez çalışmasının ilk araştırma sorusu şu şekilde gündeme getirilmiştir: DTÖ sisteminde reforma ihtiyaç duyulmakta mıdır? Bu soruyu "evet" olarak yanıtladıktan sonra, ikinci araştırma sorusu şu şekilde sorulmuştur: DTÖ sisteminin neden reforma ihtiyacı vardır? Bu sorunun cevabı ise altı başlık altında verilmiştir ve bunlar sırasıyla: 1) Değişen uluslararası sistem, 2) 'Gelişmekte olan ülkelerin' tanımı, 3) Anlaşmazlıkların Halli Organı, 4) Temsil ve Katılım, 5) Şeffaflık ve Bildirim ile 6) Bölgesel Ticaret Anlaşmalarıdır. Bu noktada, özellikle birinci ve ikinci alt başlıklarda, uluslararası sistemin yapısındaki değişiklikler anlaşılmaya çalışılmıştır. Bunun için Birleşmiş Milletler Ticaret ve Kalkınma Konferansı (UNCTAD) verileri kullanılarak dört makroekonomik gösterge seçilmiştir. Bunlar sırasıyla: 1) 1971 ve 2018 yılları arasında gelişmekte olan, gelişmiş, geçiş ekonomileri ve En Az Gelişmiş Ülkeler (LDC) için toplam GSYİH yüzdesi, 2) 1971 ve 2018 yılları arasında seçilmiş ülkeler ve ekonomiler için kişi başına yıllık ortalama büyüme oranları, 3) 1971 ve 2018 yılları arasında seçilen ülkelerin dünya mal ihracatındaki payları, 4) 2005 ve 2018 yılları arasında hizmet ve mal ticaretinin toplam küresel ihracat içindeki payı. Burada, iki önemli noktayı açıklamakta yarar vardır. İlk olarak, DTÖ ülke sınıflandırması incelendiğinde, DTÖ üyelerinin iki ana grupta değerlendirildiği görülmektedir: 1) Gelişmiş ülkeler ve 2) Gelişmekte olan ülkeler. Ancak DTÖ'de "gelişmiş" üye veya "gelişmekte olan üye" üzerinde mutabık kalınmış bir tanım yoktur. Ayrıca, gelişmekte olan bazı ülkeler LDC olarak kabul edilmektedir. Dolayısıyla, DTÖ sistemi içindeki güç dağılımını anlayabilmek için bu üç ana ülke grubu kabul edilmiş, 1990'lardan itibaren önemi gittikçe azalan geçiş ekonomileri diğer tablolara dahil edilmemiştir. İkinci önemli nokta ise seçilen zaman dilimleriyle ilgilidir. Dört makroekonomik göstergenin üçü için temel yıl olarak 1971 kabul edilmiştir çünkü LDC kategorisi 18 Kasım 1971 tarihli Birleşmiş Milletler Genel Kurulu'nun 2768 sayılı kararı (XXVI) ile oluşturulmuştur. Dolayısıyla, sağlıklı bir karşılaştırma yapabilmek için bu tarih başlangıç yılı olarak seçilmiştir. Benzer bir mantıkla 2005 yılı 'mal ticareti' ile karşılaştırıldığında çok yeni bir alan olan 'hizmet ticareti' için temel alınmıştır çünkü

karşılaştırma yapılabilecek en güvenilir verilerin bu tarihten itibaren başladığı değerlendirilmektedir.

Yukarıdaki bulgular ışığında, tez çalışmasında başka bir alt soru sorulmuştur: Çin Halk Cumhuriyeti (buradan itibaren “Çin” olarak anılacaktır) gerçekten gelişmekte olan bir ülke midir? Aslında, bu alt soru DTÖ'deki reform tartışmalarının kalbini oluşturan noktalardan biridir. Bu nedenle, Çin'in önemini değerlendirmek için Çin'i yukarıdaki seçilen ülke gruplarına eklemek daha mantıklı olmuş; hangi ülkelerin veya ülke gruplarının DTÖ sisteminde avantaja sahip olduklarının daha iyi anlaşılması amaçlanmıştır. Özellikle gelişmekte olan bir ülke olan Çin'in, makroekonomik göstergelerin çoğunda Amerika Birleşik Devletlerinin (ABD) gözünde bir “tehdit” olarak algılandığını söylemek yerinde olacaktır.

DTÖ'nün Anlaşmazlıkların Halli Organında yaşanan sıkıntılar ise çok taraflı ticaret sisteminin tarihinde yaşadığı en büyük krizlerden birine neden olmuştur. Uluslararası ticaret kurallarına ilişkin anlaşmazlıkların çözümünde kilit bir konumda bulunan ve Anlaşmazlıkların Halli Organı tarafından kurulan Tahkim Organına yeni üyelerin atanmaması ve mevcut üyelerin görev sürelerinin uzatılmaması nedeniyle 11 Aralık 2019 tarihi bir dönüm noktası olmuştur. Çünkü görev süreleri dört yıl olup, yedi üyeden oluşan ve her üyenin bir daha atanabilme durumu bulunan Tahkim Organının karar verebilmesi için en az üç üyeye ihtiyacı bulunmaktadır fakat anılan tarih itibarıyla Tahkim Organında hakim olarak bir tek Çinli profesör Hong Zhao kalmıştır. Dolayısıyla, bu tarihten itibaren Tahkim Organı işlevsiz durumdadır ve bu hâl çok taraflı ticaret sisteminin geleceği için büyük bir sorun teşkil etmektedir.

Temsil ve katılım, DTÖ'de reform yapılması ihtiyacının nedenlerinden biridir. Bu alt başlıkta bahsedildiği üzere, DTÖ'de üyelerin katılımı için öncelikle ‘temsil’ edilmeleri gerekmektedir. Fakat 7 Mayıs 2007 tarihinde, DTÖ'nün eski Genel Direktörlerinden Pascal Lamy, Cenevre'de temsilciliği bulunmayan 30 ülkenin olduğunu ifade etmiştir.³⁰⁷ Mayıs 2019 tarihi itibarıyla ise bu sayının 9'a indiği öğrenilmiştir.³⁰⁸ İlk bakışta olumlu gibi görünen bu gelişme için haberin iç yüzü bu

307 “Lamy: Chairs Working Towards Revised Papers”, available at https://www.wto.org/english/news_e/sppl_e/sppl62_e.htm (Access on 16.05.2020)

308 “WTO organizes “Geneva Weeks” for non-resident delegations”, available at https://www.wto.org/english/tratop_e/devel_e/genwk_e.htm (Access on 16.05.2020)

şekilde değildir çünkü yukarıda verilen bilgiler ışığında görülmektedir ki tarihsel süreç içinde birçok ülke DTÖ'deki tartışmalara katılmak bir yana temsil dahi edilememiştir. Dolayısıyla, kendilerinin temsil edilmediği toplantılarda alınan kararlara itiraz bile edilememiştir. Bununla birlikte, tezde ifade edilen ülke örneklerinde görüldüğü üzere, birden çok uluslararası örgüt nezdinde akreditasyon verilen ülke temsilcilikleri için bu toplantılara etkin katılım sağlamaları kolay görünmemektedir. Öte yandan, başlığın ikinci kısmını oluşturan 'katılım' ile ilgili olarak, özel, kulüp benzeri toplantıların fikir birliğine varmak için kullanıldığı ancak geliştirmekte olan ülkelerin çoğunun bu tür toplantıların dışında tutulduğu iddiası Narlikar tarafından öne sürülmektedir.³⁰⁹ Bu duruma ek olarak, bu hususta eleştiri konularından olan gayriresmî istişareler ve yeşil oda toplantıları da örnek gösterilmektedir.

DTÖ üyeleri ve tacirler için 'şeffaflık ve bildirim' başlıkları önemlidir. "Kim ne yapıyor?" sorusunun cevabı üye ülkelerin, diğer ülkelerin ticaret politikalarını takip edebilmeleri ve alınan ticaret önlemleri veyahut uygulamalarını izleyebilmeleri için büyük bir önem taşımaktadır. Ayrıca, MTS içinde şeffaflık ve bildirimlerin kayda değer bir yeri vardır çünkü ticaretin tarafları bu bilgilere göre kendi pozisyonlarını almaktadır. DTÖ'nün bildirimler ile ilgili istatistiklerinden anlaşılacağı üzere, bildirim yapan ülkelerin yüzdesi, 2017 yılında %52'lere kadar gerilemiştir. Fakat küresel çapta insanlığı etkileyen durumlar bu ilkelerin öneminin daha iyi anlaşılabilmesini sağlamaktadır. Örneğin, COVID-19 krizinde olduğu gibi, üye ülkeler tarafından alınan önlemler ve verilen destekler hakkında DTÖ Sekreteriyasının bilgilendirilmesi hususunda; DTÖ'nün görev süresi dolmak üzere olan Genel Sekreteri Roberto Azevêdo, DTÖ üyelerini 24 Mayıs 2020 tarihli iletisi ile cesaretlendirmek istemiştir. Dolayısıyla, çok taraflı ticaret sistemi içinde öngörülebilirliği sağlayan bu iki unsur DTÖ reformu için büyük bir değere sahiptir.

Bölgesel Ticaret Anlaşmaları, "DTÖ sisteminin neden reforma ihtiyacı vardır?" sorusunun altıncı nedenini oluşturmaktadır. Buna ek olarak, 12 Eylül 2007 tarihinde gerçekleştirilen DTÖ Forumunda Kolombiya Üniversitesi'nden Jagdish Bhagwati ve Peterson Enstitüsü'nden Gary Hufbauer arasında yapılan tartışmanın konularından biri olan ve bu tez çalışmasının da alt sorularından birini oluşturan

309 Amrita Narlikar, The World Trade Organization, Oxford University Press, 2005, p. 45.

“Bölgesel Ticaret Anlaşmaları çok taraflı ticaret sistemi için atlama taşları mıdır yoksa bu sistemin engelleri midir?” suali önemlidir. Bu soruya ilişkin ilk olarak, Bölgesel Ticaret Anlaşmaları (BTA) dünya ticaretinde ayrımcılığa neden olmaktadır. BTA’ya taraf olan ülkeler veya ülke grupları, diğer taraflara herhangi bir gümrük vergisi indirimi yapma ihtiyacı duymamaktadır. İkincisi, BTA’lar yatırımların karşılıklı teşviki ve korunması, kamu alımları, çevre ve iş gücü gibi konuları kapsamaktadır ve bu alanların bir kısmı, DTÖ kuralları ile düzenlenmediği için BTA’lar bu alanlarda yeni düzenleme ve kurallar getirmektedir. Bu da haliyle, çoğu gelişmekte olan ülke ve bu ülkelerdeki küçük şirketler için birtakım zorluklar doğurmaktadır. Üçüncü olarak, “Taraflar arasında çözülemeyen sorunlar nasıl halledilecektir?” alt sorusu önemlidir çünkü anlaşmazlık konusunun, DTÖ anlaşmalarında yer almayan özel bir düzenlemeye yönelik olabileceği düşünüldüğünde, MTS içinde DTÖ ve BTA’lar arasında artan oranda farklılaşma tehlikesi bulunmaktadır.

Tezin üçüncü bölümünün devamında; ABD, AB, Çin, Ottawa Grubu ve diğer gelişmekte olan ülkelerin DTÖ reformu konusundaki görüşleri ve teklifleri de dahil olmak üzere pozisyonları incelenmiş ve her bir ülke veya ülke grubunun üzerinde durduğu konular dile getirilmiştir. Bölümün sonunda ise DTÖ reformu iki ana akım Uluslararası İlişkiler teorisi ile açıklanmaya çalışılmıştır.

Tez çalışmasının dördüncü bölümünde, ülke veya ülke grupları tarafından hazırlanan DTÖ reform pozisyonlarının Türkiye üzerindeki olası etkileri incelenmeye çalışılmıştır. Dolayısıyla, “DTÖ reform pozisyonlarının Türkiye üzerindeki beklenen etkileri neler olacaktır?” suali bu tezin üçüncü araştırma sorusudur. Bu soruyu cevaplamak için öncelikle Türkiye ile DTÖ arasındaki ilişki hakkında kısa bir tarihsel arka plan verilmiştir. Bilindiği üzere Türkiye, Asya, Avrupa ve Afrika kıtalarının birbirine yaklaştığı topraklarda yer alan bir ülkedir. Türkiye eşsiz konumu sayesinde Doğu ve Batı arasında tarih boyunca önemli ticaret yollarına ev sahipliği yapmıştır. Yakın tarihe bakıldığında, Türkiye’nin Batı Ülkeleri tarafından oluşturulan geleneksel ittifak sistemleri içinde konumlandığı görülmektedir. Bu bağlamda; Birleşmiş Milletler, NATO, Avrupa Konseyi, OECD, IMF ve Dünya Bankası Türkiye'nin üyesi olduğu uluslararası örgütler arasında yer almaktadır. Bunun yanı sıra Türkiye, 17 Ekim 1951’den itibaren GATT’ın tarafı ve 26 Mart 1995’ten itibaren de DTÖ’nün üyesidir. Ayrıca, 1 Ocak 1996 tarihinden itibaren Türkiye, Avrupa Birliği (AB) ile

Gümrük Birliđi içinde yer almakta ve üçüncü ülkelere yönelik olarak sanayi ve işlenmiş tarım ürünlerini kapsayan Ortak Gümrük Tarifesi uygulamaktadır.

Öte yandan, DTÖ Sekreteryası tarafından en son yayımlanan 9 Şubat 2016 tarihli “Türkiye için Ticaret Politikasını Gözden Geçirme” incelendiğinde, tarım ürünleri için uygulanan basit ortalama oranın 2014 yılında tarım dışı ürünlerde %5.5 iken, tarım ürünlerinde %49.1 olduğu görülmektedir.³¹⁰ 2019 yılı için Türkiye'nin tarife profiline bakıldığı zaman ise tarım ürünlerinde uygulanan basit ortalama MFN oranı %42.3 iken, tarım dışı ürünlerde %4.5 olduğu anlaşılmaktadır.³¹¹ Dolayısıyla, aradan geçen beş yılda Türkiye'nin basit ortalama MFN oranını düşürdüğü fark edilmektedir.

Yukarıda bahsedilen Gümrük Birliđi ve DTÖ üyeliğinden kaynaklı bu politikalar sonucunda Türkiye ortalama gümrük vergisi oranlarını düşürmektedir. İkinci olarak, DTÖ reformuna ilişkin yukarıda anılan ülke ve ülke gruplarının pozisyonlarının Türkiye üzerindeki olası etkileri ayrı ayrı değerlendirilmiş ve bölümün sonunda ise “DTÖ Reformu ve Türkiye” konusuna ilişkin olarak güncel bir kuramsal tartışma yapılmaya çalışılmıştır.

Bugün DTÖ, II. Dünya Savaşı'ndan bu yana gördüğü en büyük zorluklarla karşı karşıyadır ve bu tezde DTÖ reformunun gerekli olduğu sonucuna varılmıştır. Reformun nedenleri ise yukarıda sıralanmıştır. Değişen uluslararası sistem, bu saiklerin en güzel örneklerinden biridir. II. Dünya Savaşı'ndan sonra, ‘iki kutuplu dünya’ kavramının yerini 1990'lardan bu yana giderek artan bir şekilde ‘çok kutuplu dünya düzeni’ almıştır. Bu nedenle, küresel yönetişimde zorluklar ortaya çıktığı gözlenmektedir.

Bu tez boyunca, DTÖ'nün temellerinde liberal bir mantık olduğu ancak DTÖ'nün işleyişinde zaman zaman realist politikaların izlendiği görülmektedir. Bu açıdan, DTÖ reformunu tek bir Uluslararası İlişkiler teorisi ile açıklamak zordur. Bu nedenle neo-realizm ve neo-liberalizm bu çalışma için bir ‘kilit ve anahtar modeli’

310 WTO, “Trade Policy Review Report by the Secretariat- Turkey”, WT/TPR/S/331, 9 February 2016, p. 53, available at https://www.wto.org/english/tratop_e/tpr_e/s331_e.pdf (Access on 15.06.2020)

311 WTO, “Tariffs and imports: Summary and duty ranges- Turkey”, available at https://www.wto.org/english/res_e/statis_e/daily_update_e/tariff_profiles/TR_E.pdf (Access on 15.06.2020)

gibi birbirini tamamlamaktadır. Fakat bu durum DTÖ sisteminin tamamen gelişmiş ülkelerin lehine çalıştığı anlamına da gelmemektedir. UNCTAD, DTÖ, IMF ve WEO gibi veritabanlarından elde edilen çeşitli veriler ve bunlarla ilgili rakamlar, gelişmekte olan ülkelerin MTS'deki payının birçok açıdan arttığını göstermektedir. Bu artışın gerçekleşmesinde Çin faktörü büyük önem taşımaktadır çünkü Çin, gelişmekte olan ülke statüsünde olmanın avantajlarından yararlanmaktadır. Dolayısıyla, Çin'in uzun süredir devam eden yükselişi (Örneğin, Çin'in ortalama yıllık GSYİH büyüme oranı 1980 ile 2018 arasında % 9,5 civarındadır.) ABD'yi rahatsız etmektedir. Öte yandan, dünya ticaretinin Doğu'ya doğru kaydığı ve Çin'in bazı makroekonomik göstergelerde birinci, diğerlerinde ise ikinci sırada olduğu da bilinmektedir. Dolayısıyla, 'ticaret savaşları' yeni bir olgu değildir ve günümüzde ABD kendi yerini küresel ölçekte korumaya çalışmaktadır. Bununla birlikte, DTÖ reformu ile ilgili en hevesli tarafın AB olduğu söylenebilir çünkü farklı yaklaşımlara sahip taraflar arasında bir uzlaşmaya varmak için mümkün olduğunca çaba sarf etmektedir. Fakat günümüzdeki süreç AB'nin kurumsal bütünlüğü açısından sorunlar doğurmaktadır ve AB'nin DTÖ reformunu belirleyecek gücünü zayıflatmaktadır.

Özetlemek gerekirse, DTÖ içinde gelişmekte olan bir ülke olarak sınıflandırılan Türkiye açısından bakıldığında, Türkiye'nin DTÖ reform çalışmalarına etkin katılımı, Türkiye'nin çok taraflı ticaret sistemi içinde kendi çıkarlarını daha iyi savunmasının yolunu açacaktır. Bu gerçekleşmez ise, tezde incelendiği gibi, Türkiye edilgen bir şekilde değerlendirilmeye devam edecektir. Buradan hareketle, "DTÖ reform pozisyonlarının Türkiye üzerindeki beklenen etkileri neler olacaktır?" sorusunun cevabı, çoğunlukla diğer ülkelerin ve/veya ülke gruplarının önerilerinde ve pozisyonlarında aranacaktır. Dolayısıyla, gelişmekte olan ülkelerin çekincelerinin dikkate alınıp alınmayacağı Türkiye'nin bu konudan nasıl etkileneceğini belirleyecektir. Bununla birlikte, bir İspanyol atasözünün dediği gibi, "Hey yolcu, yollar yapılmaz. Yollar, yürüyerek oluşturulur."³¹²

312 Henry Kissinger, *Diplomasi*, Volume XI, trans. İbrahim H. Kurt İstanbul: Türkiye İş Bankası Kültür Yayınları, 2012, p. 811.

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