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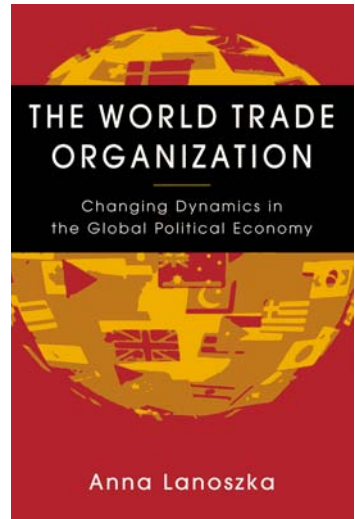
The World Trade Organization: Changing Dynamics in the Global Political Economy

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CHAPTER 1

Introduction

This is a book about the changes that have taken place in international trade over the past twenty years. The point of departure for this inquiry is the time when more than 100 countries sat together to negotiate a new multilateral trade pact that culminated with the creation of the World Trade Organization (WTO). The establishment of the WTO, however, was just the beginning of a long process that is still far from over. This process involves a multilateral attempt to respond to the transformations in the world economy. It also includes dynamics of adaptation and resistance that characterize the behavior of many WTO member states as they are trying to position themselves in the new trading environment. The changes introduced by the WTO reflect, on the one hand, the rearrangement of power relations in the global economy and, on the other hand, the intensification of the linkage between global economic integration and local socioeconomic development.

But why should we care about these changes? What is the importance of international trade in general and the WTO in particular?

Why Study Trade?

The capricious world economic trends ensure that trade remains one of the most fascinating aspects of international relations. Over the generations, trade never failed to demonstrate its importance and create new controversies. When Aristotle contemplated the essential elements of the ideal city-state, he listed five classes of professions. One of them was the class of traders. It is striking to realize that at the beginning of our civilization, over

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two thousand years ago, the philosopher's considerations about commerce were inevitably connected with his plan for a well-functioning and secure society.

The same, then, is true of the forms of government which have been described; states, as I have repeatedly said, are composed, not of one, but of many elements. One element is the food-producing class, who are called husbandmen; a second, the class of mechanics who practice the arts without which a city cannot exist; of these arts some are absolutely necessary, others contribute to luxury or to the grace of life. The third class is that of traders, and by traders I mean those who are engaged in buying and selling, whether in commerce or in retail trade. A fourth class is that of the serfs or laborers. The warriors make up the fifth class, and they are as necessary as any of the others, if the country is not to be the slave of every invader.¹

Since time immemorial, international trade epitomized the engagement with the world beyond the known borders. It represented both necessity and luxury and was pursued in the name of survival and progress. Trade also stimulated our human curiosity about foreign lands and customs. This worked best if countries respected each other as equal partners. Sometimes, however, the economic progress of one nation came at the expense of other nations, fueling conquests and wars. Faced with a multiplicity of challenges posed by the realignment of power relations in the global economy, we must strive to address inequality and exploitation in international trade. Economic progress will only make sense if it is supported by trade agreements that take into account the developmental needs of societies. One may argue that the WTO is only a technical agreement with no place for development concerns. This is a fallacy. From its beginning, trade always influenced the economic development of societies. Ultimately, the legitimacy of the WTO depends on the responsibility of its members to ensure that such progress is sustainable and that some nations are not advancing their economic development by taking advantage of others.

Nowhere is the intricacy of international trade better conveyed than in the story of the Silk Road. The Silk Road was a complex system of trade routes that served to exchange goods and technology between the people of ancient civilizations. Geographically, the Silk Road stretched over the vast territory between China and Western Europe. Contemporary traders still travel similar routes, although they no longer use camels as their means of transportation. On the occasion of opening the Silk Group Project at the Art Institute of Chicago, Karen Manchester, the Elizabeth McIlvaine Curator of Ancient Art, skillfully summarized the historical legacy of trade:

Although it still evokes fantasies of lush desert oases and distant crossroad settlements teeming with multinational merchants and other travelers, the

Silk Road has become, in our time, a metaphor for the harmonious exchange of culture among people from diverse societies, distant places, and different faiths.²

Indeed, despite the numerous controversies that continue to surround the world trade system, we can still celebrate its unintended positive consequences: the cross-cultural encounters that have taken place over two millennia of international trade.

The Birth of the WTO

The creation of the WTO marks a beginning of a long process of attempting to govern ever-increasing international trade flows in a concerted and multilateral way. The architects of the WTO wanted it to be open to all countries. The legal underpinnings of the WTO do indeed point to an inherently democratic character of the organization. The lingering question is whether the WTO lives up to its democratic promise, particularly with respect to equality among its members. The record speaks differently on quite a number of issues. I will demonstrate throughout the book the gaps that exist between the organization's lofty goals expressed in the preambles of WTO agreements and the harsh realities of implementing these agreements. Our evaluation of the WTO's internal conflicts, external criticism, and unexpected developments will also shed light on the growing complexity of the world economy.

The decision to create the WTO in 1995 at the conclusion of the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade (GATT) reflected an uneasy consensus among the negotiating countries to enlarge and strengthen the multilateral trading system in order to address the new realities of the global political economy. The provisional 1947 GATT has been replaced by the WTO, which concerns itself with much more than GATT ever did. Areas such as intellectual property, services, investment, and even agriculture were seldom mentioned under the old agreement. In contrast, under the WTO, new separate agreements now deal with each of these issues. After all, GATT was exclusively about trade in goods. The WTO is about trade in goods, services, intellectual property, and other trade-related issues. Its agreements often penetrate inside the borders of WTO members and influence areas that used to be under the sole jurisdiction of individual governments. In a way then, the WTO is well positioned to play a significant role in managing the increasingly interconnected global economy.

The scope of the new organization and its strong legal features surprised many scholars and practitioners when it was first created. It would be difficult to find an expert in the early 1990s who would, with some certain-

ty, predict the future trajectory of the world trading system under the WTO. The agreement was signed by a record number of nations to create the first formal global organization. It was a momentous event in the history of the world economy, although some diplomats, skeptical about its level of ambition, were quietly calling the WTO project “an escape into the future” because of the many issues that were left unresolved at the time the organization was born. Ironically then, the organization that was considered to be a long-awaited achievement on the path of global economic integration was, from its beginning, rushing toward an uncertain future. Only now, after more than a decade of its existence, can we evaluate the WTO and ponder whether it was an appropriate multilateral effort in the face of a global economic makeover.

As we approach the end of the first decade of the twenty-first century, the record of the globalizing economy is mixed at best. While some communities have been able to take advantage of global market integration, others blame globalization for lost jobs and widespread socioeconomic insecurity. It is difficult not to acknowledge the economic successes of China, India, and Brazil. However, the unprecedented increase in the price of oil and gas, growing food shortages, and an enduring instability of financial markets continue to shake economies worldwide. These problems affect local communities, but because of their global nature they require a coordinated international action. The question is whether the WTO lives up to its promise of addressing at least some of these predicaments.

Themes and Theories

There are three interrelated themes that I follow throughout this book. The first considers the WTO as a response to the geopolitical and socioeconomic transformations that began to manifest themselves toward the end of the 1980s. In an attempt to respond to these transformations, the WTO was given new untested responsibilities and agreements. Some of the new WTO agreements overburdened member states, thus causing tensions between their WTO obligations and their developmental priorities. The second theme considers the WTO to be an unfinished project, especially when it comes to its decisionmaking processes. As the WTO was rushed into existence at the end of 1993, insufficient attention was paid to its institutional structure. Despite its new legal status and its enlarged scope, the WTO still operates according to the procedures first established under GATT, when the membership was smaller and the agenda much less complex. Thus, the current institutional structure of the WTO is ill-equipped to deal with the multiple challenges posed by the changing world economy. The third theme focuses on shifting power relations in the international trade system. Previously

marginalized under the GATT system, developing countries as a group have taken advantage of their equal legal status under the WTO to play an active role in setting the agenda within the WTO. The new global division of labor, together with innovative ways of organizing today's international trade and investment flows, resulted in reduced domination of historically powerful industrialized countries. As a multilateral forum for conducting global trade negotiations and a mechanism for managing trade among its 152 members,³ the WTO has become an interesting battleground in this respect.

For much of the postwar period, the Western industrial nations had shaped the GATT system, and that arrangement did not always work for all the countries involved. Developing countries remained outside its decision-making practices. GATT was essentially a clublike contract that reflected the preferences of the dominant nations and was characterized by the inherent pro-Western and antidevelopment bias. The WTO, by contrast, has promised to be more inclusive and sensitive to the developmental needs of all its members.

A break in the historical continuum of postwar trade relations that came with the decision to create the WTO has to do with legal guarantees and obligations that are now embedded in the WTO framework. They place certain constraints on countries belonging to the WTO, but they also offer opportunities for equal participation in the system that previously openly favored the major developed countries. As a result, these new guarantees and obligations can significantly influence the way WTO members interact with each other and hence, by extension, they alter power relations in the world trading system. One is the principle of *single undertaking* that requires the acceptance of the whole package of WTO agreements by each WTO member, and the second is the principle of *judicial equality* of all WTO members that gives every member an equal voice in the decisionmaking processes of the WTO. These two principles came into existence as the result of the Uruguay Round and they changed how international trade is managed multilaterally by the WTO.

Because of these developments, the WTO has also become a test for economic multilateralism. This is why the consequences of the WTO will be long lasting, no matter how effective or, alternatively, how unsuccessful the organization turns out to be. The effectiveness of the WTO would have to be measured by its ability to manage international trade to the advantage of all WTO members with no major conflicts. It would also have to be an effective forum for conducting new negotiations and for addressing the needs of all its members. The WTO agreements should facilitate international trade flows without discrimination and without causing economic hardship in WTO member countries. Furthermore, the WTO should be able to rely on rules and transparent procedures. Finally, it should be able to

effectively discourage power games and intimidation by those members that are economically powerful. If the WTO passes the above test, it will be a great victory for the multilateral trade system. If it does not, the failure of the WTO should be confronted accordingly. We may be forced to reevaluate our multilateral approach to managing world trade relations.

Theoretically speaking, this book is grounded in the institutionalist interdependence approach to international relations. The idea of complex interdependence among nations goes back to the examination of interstate cooperation and institution building during the post–World War II era, and it speaks primarily in opposition to realist theories of international relations. Structural realism, one of the leading forms of realist theory, is based on the premise that the anarchical structure of the international system compels states to either maintain or enhance their power for the sake of self-preservation.⁴ And yet despite the realist assumption that states are guided by their self-interested logic that questions the utility of any collaborative initiative, states have continued to cooperate internationally on a variety of issues.

The liberal institutionalist theory, which stresses interdependence among nations, was first formulated by Robert Keohane and Joseph Nye. It makes a claim that stability and order in the international arena emerge from cooperation among nations through the medium of international regimes.⁵ This leads to a famous definition: “Regimes can be defined as sets of implicit and explicit norms, rules, and decision-making procedures around which actors’ expectations converge in a given area of international relations.”⁶ Keohane later goes beyond this definition by urging us to pay attention to the nature of the regimes and the state actors that shape them according to their needs. States seek to create international regimes because the networks of international cooperation benefit them in return. In fact, international cooperation has persisted with, or without, the existence of a dominant hegemonic state capable of providing a strong leadership leading to the establishment of common norms and institutions. According to Keohane, the functional need for international regimes leads to deepening international integration and allows states to function without a hegemonic state. The existence of international regimes can be a powerful motivator of international cooperation in the absence of a single large state able and willing to enforce rules and regulations within the system (hence the title of Keohane’s book *After Hegemony*).⁷

According to the above theory, international organizations, such as the WTO, are based on norms that become their standards of behavior as defined in terms of rights and obligations.⁸ In turn, these general obligations and rights guide the behavior of states in the formulation and implementation of rules. Legal rules vest these rights and obligations in international law. This is why it is particularly important to study the WTO, because it is the first global economic organization that is fully legalized by its adher-

ence to legal rules and its principle of judicial equality. The WTO is also theoretically significant because it illustrates the limitations of the regime theory in addressing the tension between states' need for international cooperation and their subsequent vulnerability to become dependent on other states. This dependency is often directly related to institutional and legal constraints imposed, as in the case of the WTO, on its member states. Such constraints can be in conflict with the preferences expressed by some domestic groups, but they do not mean that the state becomes completely powerless.

Still, some observers worry that economic interdependence and the concomitant globalization have at least reduced the autonomy of the state. The claim is made that economic globalization supported by the WTO forces the state to eliminate its protectionist policies, relax environmental regulations, and reduce social programs in order to be more globally competitive. The subsequent global "race to the bottom" would ensure that the state becomes less of a relevant actor domestically and perhaps even internationally because of a strong dependence on the performance of the global economy.⁹

Proponents of this view of international economic relations emphasize the shift in thinking about the state's role in the economy from an interventionist Keynesian perspective to a neoliberal free-market approach based on the work by Friedrich von Hayek. John Maynard Keynes developed a theory of macroeconomics that attached importance to the government as being a source of stability in the economic affairs of the country. After all, the hazards of unrestrained free-market, laissez-faire economic liberalism were demonstrated well after the Great Depression in the 1930s. State intervention and the establishment of social programs were thus deemed necessary to protect the economy and the society from the uncertainty of unregulated free markets.¹⁰ However, years of deficit spending and high costs of state subsidies accumulated into burdensome debts, which led some economists to call into question the wisdom of Keynesian macroeconomic theory. Milton Friedman, and other academics whose names are associated with the Chicago School of economics, revived the ideas of Hayek when they contended that government intervention in the market not only stifled individual liberty, but was inefficient and hindered competition.¹¹ Neoliberalism, as this economic movement came to be known, became particularly salient during the late 1970s through the 1990s when governments annulled many barriers to trade and capital movement and reduced some spending. According to critics of the neoliberal trend in the global economy, governments are getting smaller and the state, by extension, is becoming a less meaningful actor on the international stage as a result—especially when it comes to economic affairs.¹²

Such arguments, which often predict the complete demise of the state,

are problematic on two counts. First, they overemphasize the ideological strength of neoliberalism in international economic affairs and thereby fail to appreciate the adaptability of the state. Laissez-faire capitalism, after all, reached its apex not in the later part of the twentieth century but rather in its beginning. Studies have shown capital flows were far greater before World War I.¹³ Moreover, the scope of the state back then was much narrower, as defense had accounted for the lion's share of government budgets. Related claims regarding the power of contemporary multinational corporations also appear somehow exaggerated when one reads of the liberties afforded to imperial charter companies in nineteenth-century Asia and Africa and the activities of the United Fruit Company in Central America during the 1950s.¹⁴

Second, and perhaps more crucially, empirical studies have revealed that there is a positive correlation between the openness of the economy and the size of government. The famous finding by economist Dani Rodrik shows that states whose gross domestic product contains a higher share of trade tend to have larger government expenditures.¹⁵ It is a correlation that is counterintuitive to the expectations of both advocates of free markets and their critics. The warnings of critics that reduced barriers to trade would require states to disappear have proven to be unfounded, whereas the judgment of the neoliberals that government size can negatively affect trade is also groundless. At the same time, it should not be surprising, given the record of countries that experienced laissez-faire capitalism in the face of the turmoil of the international market, that states should seek to shield themselves from its potential risks. Indeed, political scientist John Gerald Ruggie has emphasized how, in the aftermath of World War II, government intervention was determined necessary to maintain domestic economic stability and the smooth operation of a multilateral global economy. He has called this phenomenon "embedded liberalism."¹⁶ While one might expect that the argument behind embedded liberalism has been weakened by the collapse of the Bretton Woods monetary system in the 1970s, the subsequent challenge to US economic hegemony, and by the neoliberal shift, Robert Keohane has argued that it continued thereafter, and the empirical evidence provided by Rodrik's research shows that governments remain reluctant to loosen their support systems to shield their populations from adverse market conditions.¹⁷

I rest my argument upon the recognition that the state continues to be an important actor on the international scene. Although joining an international organization such as the WTO may somehow reduce its autonomy, this is done to advance international economic cooperation that is expected to benefit the state. In fact, given the transformations taking place in the global economy, the state has an important role to play. The state is expected to deal with many conflicting pressures that originate outside its borders.

In his book about globalization, Jan Aart Scholte talks about global tensions characterized by the spread of transplanetary and supraterritorial connectivity. The state should not abdicate its responsibility. It should try to resolve growing tensions brought about by globalization, which after all “is about contests between interests and competing values.”¹⁸

Craig N. Murphy observes that globalization offers a possibility for establishing a substantially more democratic global polity. However, to seriously contemplate its current prospects we must pay attention to the central feature of the global polity that “can be identified along three dimensions: the policy realms it affects, its institutions, and its social nature, that is the social forces that it privileges or curtails.”¹⁹ In that sense, the WTO is an interesting case study because it provides a forum where economically and socially diverse countries can compete over the shape of its policies, its institutional structure, and its social consequences. Furthermore, the WTO claims to be a global organization with universal membership, which as Peter D. Sutherland observes, “means that it is ideally placed to contribute to new cooperative arrangements at the international level aimed at promoting global coherence in economic policymaking, not only in trade relations, but also more generally in other aspects of economic policy.”²⁰

Consequently, the WTO’s ambitions must be scrutinized not only from the institutionalist perspective as a functional outcome of interstate negotiations. The WTO must also be investigated from within, as a bureaucracy with its own internal dynamics. Here the recent work by Michael Barnett and Martha Finnemore presents us with great insights by recognizing that each international organization has its own internal autonomy. The authors note that most theories of international relations assume that an international organization being created by states would exist and act in the way states want them. In contrast, their premise is to treat international organizations as autonomous actors that “often produce inefficient, self-defeating outcomes and turn their back on those whom they are supposed to serve.”²¹ This approach can help us examine certain unexpected developments in the life of the WTO that appear to have a detrimental effect on the operation of the organization.

Organization of the Book

This book is organized in the following way. Chapter 2 provides important historical background to the current events in the international trade system. It would be very difficult to understand the magnitude of the changes that have occurred both on the institutional level (creation of the WTO) and on the substantial level (new industries, new trade issues, new actors) without going back to the origins of the multilateral trade system. The chapter con-

sequently takes the reader throughout the decades when trade relations were managed by the provisional GATT agreement until the momentous Uruguay Round of multilateral negotiations, which after prolonged negotiations, gave birth to the WTO.

Chapter 3 examines principles, structures, and practices of the WTO with the focus on the main obligations and responsibilities given to its members. The chapter takes a close look at the decisionmaking bodies of the WTO and shows the extent of the transformation from the GATT system to the rules-based WTO. My investigation reveals an apparent paradox of the organization—that as it becomes more democratic internally, it also becomes less effective in terms of advancing its goals. The WTO has provided legal opportunities for developing countries to shape its agenda, but it did so at a price. Developing countries are no longer willing to accept the demands by the historically dominant economies, which, in turn, are not ready to relinquish their control over the trading system. The outcome is an ongoing struggle within the organization that asks for institutional reforms of the system.

Chapter 4 concentrates on the first pillar of the WTO: trade in goods. It specifically focuses on the most controversial agreements included in the first pillar, namely the agreements on agriculture, textiles and clothing, and antidumping. Agricultural trade was poorly dealt with under the old GATT, despite the fact that it constituted a vital part of the economy in many countries. Over the years a number of exemptions allowed under GATT distorted the way countries conducted trade in agricultural products by keeping this sector effectively outside the multilateral rules. In a similar way, international trade in textiles and clothing remained outside GATT despite being of vital importance to developing countries. The chapter provides a historical explanation as to why this was the case. It also explains and critically analyzes the mentioned agreements.

The second pillar of the WTO, trade in services, is the subject of Chapter 5. It centers on the General Agreement on Trade in Services (GATS). It is a very unique agreement that permits countries to design their own liberalization strategy when opening services sectors to foreign competition. The flexibility afforded to WTO members under the GATS, however, can become counterproductive since the agreement requires considerable technical knowledge to conduct liberalization within its framework. Furthermore, because barriers to trade in services are related to a range of domestic regulations, the opening of services sectors to foreign competition requires collaboration between different ministries and private business groups. Overall, this chapter tells the reader about the magnitude of problems associated with services liberalization and explains the limitations of the GATS in advancing a thoughtful plan for achieving this.

Chapter 6 is about the third pillar of the WTO, which is also the most

controversial part of the organization: the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs). TRIPs is an attempt to set global standards for protection of intellectual property rights at a level that is comfortable with the demands expressed by a number of industries. Regrettably, by emphasizing the private monopolistic rights of titleholders, TRIPs represents an approach that is very narrow and industry driven. It does not take into consideration the impact of implementing TRIPs in poor developing countries. TRIPs is also insensitive to the different cultural and social attitudes expressed toward the concept of intellectual property, which in fact contradicts the idea of free and open trade. The chapter provides a brief negotiating history behind the agreement, explains its main provisions, and discusses the various controversies surrounding it.

Chapter 7 talks about the attempts to enlarge the scope of the WTO by negotiating agreements on new issues. As the WTO was established, many countries felt that the negotiations were unfinished because issues such as investment were not successfully dealt with. In addition, the idea of including provisions within the WTO concerning the environment and labor standards was at the time gaining widespread support among civil society groups in the major industrialized countries. Following the first WTO ministerial meeting in Singapore in 1996, several working groups were established to advance future multilateral negotiations on a set of new issues. So far, however, there has been little progress in this area. Developing countries reject the inclusion of new issues in the WTO. They fear that such standards would only be used for protectionist purposes, thus restricting access of many products and services from the developing world. In response, the developed countries are seeking to broaden the scope of the existing multilateral obligations by placing additional demands on the countries acceding to the WTO and by negotiating bilateral trade agreements outside the WTO.

Chapter 8 focuses on developing countries and on the linkages between trade and development in the WTO context. The transformation of the world trading system from GATT to the WTO started with the promise implicitly conveyed by the new organization to integrate all countries under its legal framework. The integration of developing countries, however, has encountered numerous challenges. In this context, a number of developing countries expressed their reservations over an unbalanced WTO implementation process and asked that more emphasis be placed on their developmental needs. This was recognized in the 2001 WTO Ministerial Declaration that launched the Doha Round of multilateral negotiations aimed at addressing the ongoing concerns of developing countries. Events that have been dominating the agenda of the WTO since its establishment point out how influential a number of developing countries have become. Throughout the pages of this book, it is often demonstrated how the posi-

tions taken by India and Brazil, in cooperation with other developing countries, have changed the priorities within the WTO. In this chapter, special attention is paid to China, or specifically to the consequences of the Chinese accession to the WTO. China spent over a decade negotiating its entry into the WTO. Even before it completed its accession in 2001, China became a powerful new global economic player. Its current position and its stance on many important issues influence the world community. The conclusion of the book speculates about the future prospects of the WTO, the world economy, and more generally about the options for multilateralism during the time of ongoing global transformations.

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