

# Neutrality Principle in International Trade Law and The WTO's Role in Promoting Fairness and Justice: Legal and Moral Dimensions

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## Abstract

This paper examines the neutrality principle of the WTO dispute settlement system, which functions as a quasi-judicial body in the settlement of international trade disputes. Given the system's resemblance to traditional courts, its effectiveness in ensuring justice hinges on its adherence to neutrality, ensuring fairness, impartiality, and the rule of law. Recent developments, such as the United States obstruction of the Appellate Body, underscore the tension between maintaining neutrality and addressing external pressures that may compromise this foundational principle. This study analyzes the complexities of the neutrality dynamic in the WTO dispute settlement mechanism and argues for the organization's imperative to protect neutrality amidst emerging challenges. The method used in this study is juridical normative with historical-descriptive characteristics. The research method used is qualitative. The findings of this paper will highlight the need to protect the neutrality principle of the WTO dispute settlement mechanism and the need for change or clarification of the confusion that this blending of economic or political power in DSM, and not beyond that the neutrality of WTO is the heart of this research.

**Keywords:** Neutrality principle, International trade, WTO, Dispute settlement, Challenges

## Introduction

Neutrality is an old concept as wars between groups and later between states, the concept first appeared in a state of war, and its existence could not be imagined without it. With its experience in international variables, this concept was developed in international relations, making it a good analogy to a number of terms used in international law literature.<sup>1</sup>

To achieve justice on a global scale, several principles of justice are formed to actualize a neutrality principle, which later becomes an agreement among various elements of states. Whether it's international trade or any other field of life, the neutrality principle must be applied.<sup>2</sup>

<sup>1</sup> Hershey, Amos . "Neutrality and International Law." International Journal of Ethics, Vol 26, no. 2 (1916).

<sup>2</sup> Gottfried, M.& Trager,F. "A preference for war: How fairness and rhetoric influence leadership incentives in crises". International, Studies Quarterly. (2016).

In the modern era, regulations of free trade are reciprocal and mutually beneficial. Various countries regulate trade through laws. To implement a free trade system that runs smoothly, efficiently, and mutually beneficially, the WTO was established as a responsible organization for the regulation of international trade.

In recent years, the WTO dispute settlement system has come under heightened scrutiny, with increasing debates surrounding its classification as an adjudicative system. As this system is often considered a quasi-judicial body, comparisons to traditional courts arise, emphasizing the crucial role it plays in dispensing justice within the realm of international trade. Central to the functioning of any adjudicative system is the principle of neutrality, a cornerstone that ensures fairness, impartiality, and adherence to the rule of law. This principle has been traditionally regarded as paramount in promoting the fairness and justice of dispute resolution mechanism.

The pursuit of justice is expected to be guided by principles of neutrality. However, recent events, such as the blockage of the Appellate Body by the United States, cast a spotlight on the delicate balance between upholding neutrality and navigating through external factors that challenge this foundational principle. This exploration delves into the complexities surrounding the neutrality/non-neutrality spectrum within the WTO and highlights the evolving challenges.

### **I. Relationship between Neutrality principle and Law**

The relationship between the neutrality principle and law is multifaceted and complex, highlighting the delicate balance between achieving justice and maintaining legal certainty. According to Wantu's perspective in "Realizing Legal Certainty, Justice and Benefit in Judge's Decisions in Civil Courts," the law originates from pre-existing values of justice within society, using these values as a foundation to achieve justice through legal means. This suggests that the essence of justice is inherent and predates the formal establishment of law.<sup>3</sup> However, the question arises: can a law still be considered valid if it fails to deliver justice? The justice is a fundamental objective of the law, it is not the sole purpose. Legal certainty, among other objectives, plays a crucial role in the legal framework. A law may still retain its status as such even if it does not achieve justice, as long as it provides legal certainty. This notion introduces the concept of the antinomy of the law, where the law may face internal contradictions, such as upholding legal certainty at the expense of justice.

The pursuit of neutrality in law is aimed at creating a peaceful environment by ensuring that regulations are neutral, protecting interests without bias, and allowing equitable distribution among individuals. This objective aligns with various theories of justice, which posit that the primary goal of the law is to achieve justice, underscoring its importance for the functioning of the state and the well-being of its citizens.<sup>4</sup>

In essence, the relationship between the neutrality principle and law underscores the importance of balancing justice and legal certainty. While justice remains a core value and objective, the law must also navigate other objectives to maintain order and certainty within society. This balance is crucial for the law to fulfill its role in creating a peaceful and just society, even when faced with challenges and contradictions within its own principles.<sup>5</sup>

#### ***A. Philosophical Exploration of Neutrality in International Trade and Political Morality***

In international trade law, the principle of neutrality aims to ensure that all countries, regardless of their economic power or political influence, have an equal say in the formulation and implementation of trade

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<sup>3</sup> Wantu, F, "Realizing Legal Certainty, Justice and Benefit in Judge's Decisions in Civil Courts". Journal of Legal Dynamics, (2012).

<sup>4</sup> T. K. Shahani, "Neutrality and the law of neutrality in recent times ", The Indian Journal of Political Science, Vol. 3, No. 3, Mar (1942), pp. 277-312

<sup>5</sup> Wening Tiarashanny, IntanInayatun Soeparna, "The Principle of Justice toward the WTO retaliation based on Article 22 of dispute settlement Understanding", Journal of Archaeology of Egyptology 17(4), (2020).

policies. This is crucial for maintaining a balanced global trade environment where smaller nations are not overshadowed by more dominant ones. The WTO embodies this philosophy by advocating for trade agreements that consider the capacities and needs of all member states, thereby aiming for substantive justice where the legal rights stipulated by international agreements are fulfilled in a manner that benefits all.<sup>6</sup>

Transitioning to the realm of normative political morality, liberalism champions the idea of arranging societal groups in a manner that is neutral and fair, without imposing the value systems or beliefs of one group onto another. This approach aligns with the basic moral principle of justice as a regulatory mechanism for society, aiming to maximize the collective benefit.<sup>7</sup>

John Rawls' theory further enriches this discussion by highlighting the role of social institutions in distributing rights, obligations, and resources equitably. His original position and veil of ignorance are imaginative tools designed to ensure that principles of justice are chosen without bias, thereby safeguarding against unfair advantages or disadvantages.

Plato and Aristotle offer historical philosophical perspectives that, while distinct, contribute to our understanding of justice. Plato's emphasis on harmony aligns with the idea that societal roles and functions should be by a broader, divinely ordered plan, which can be mirrored in the way countries engage in free trade according to their capabilities. Aristotle's focus on balance and proportionality, treating equals equally and unequal unequally, provides a nuanced approach to justice that acknowledges the diversity of circumstances and needs.<sup>8</sup>

These philosophical underpinnings serve as a foundation for contemporary discussions on justice and neutrality in various domains, including international trade. They remind us that the pursuit of fairness is not only a matter of legal and procedural adherence but also a moral and ethical commitment to treating all parties with due regard for their unique contexts and contributions.

### ***B. Neutrality principles and The rule of law***

Despite the fact that the law serves justice, we cannot unquestionably say that it is and serves its purpose just because it is a law. In addition, morals change from region to region and from time to time, leading to legal uncertainty if the law was solely based on morality or religion, which would alienate a significant part of society and take us back to the Dark Ages. Balancing between these two trends would be the best choice. Achieving this requires affirming positivism while establishing an international mechanism for defining some high morals that all can share.<sup>9</sup>

The rule of law and neutrality principles are foundational concepts in governance legal systems, and international relations, and they share common elements that contribute to the stability, fairness, and effectiveness of legal and political systems.

The rule of law, a fundamental principle in democratic societies, establishes that a nation should be governed by laws rather than arbitrary decisions or the personal inclinations of individuals or authorities. One of its key aspects is equality before the law, ensuring that all individuals, regardless of their status or position, are held accountable under the law.<sup>10</sup> This principle of equality resonates with the idea of political

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<sup>6</sup> Rafael Leal, "International Trade and Sustainability Perspectives from Developing and Developed Countries", (2022).

<sup>7</sup> Paul Weithman. "John Rawls and the Task of Political Philosophy." *The Review of Politics* 71, no. 1 (2009).

<sup>8</sup> Dahl, Norman O. "Plato's Defense of Justice." *Philosophy and Phenomenological Research* 51, no. 4 (1991).

<sup>9</sup> Sayf Eddine Essadik, "RULE OF LAW, ETAT DE DROIT and PARALLEL CONCEPTS: WHICH EXPLAINS BETTER THE FAZHI (法治)?" , *International Journal of Law and Policy Review (IJLPR)*, Vol. 8 No. 2 Jul (2019).

<sup>10</sup> Ibid

neutrality, as it requires governments and state institutions to refrain from taking sides in conflicts, be they domestic or international, and instead work to facilitate peaceful resolutions.

Legal certainty, another element of the rule of law, emphasizes the importance of clear and transparent laws applied consistently. This clarity is akin to the transparency required in neutrality principles, which demand that governments and institutions' actions, decisions, and policies remain impartial and unbiased, especially in diplomatic and international relations. Neutrality in international organizations, mediation, and diplomacy aligns with the rule of law's emphasis on a fair and impartial judiciary. Both principles underscore the necessity of acting without bias or influence from external sources.

Access to justice, a fundamental component of the rule of law, ensures all individuals have access to legal remedies and a fair legal system. This aspect can be linked to the neutrality principles' role in conflict resolution and humanitarian efforts, where impartial actors facilitate negotiations and peace processes without favoring any party. Neutrality in mediation and diplomacy, in particular, plays a crucial role in providing access to justice on a global scale, as it enables impartial parties to mediate and resolve conflicts.<sup>11</sup>

## **II. Principles of Neutrality in International Trade Law**

The principle of neutrality in international trade law is a fundamental principle aimed at ensuring equal and fair treatment for all parties involved, regardless of their differences. This principle serves as a cornerstone in creating a level playing field where each country, regardless of its economic or political power, has an equal standing and voice in the implementation and enforcement of international trade policies.<sup>12</sup> International organizations like the WTO, which oversees much of international trade law, strive to ensure that smaller or less economically developed countries have the same opportunities and rights as larger, more economically powerful nations. By adhering to the principle of neutrality, the WTO and similar bodies aim to “prevent dominant countries from imposing their will on smaller nations”, thus ensuring a fairer system that benefits global trade as a whole.<sup>13</sup>

One critical aspect of neutrality in international trade law is procedural neutrality. This refers to the methods and processes used in implementing international trade law. Procedural neutrality ensures that all countries, regardless of their size or power, are treated equally in the eyes of the law. It involves giving equal weight to the voices and concerns of all member states in decision-making processes, dispute settlement mechanisms, and enforcement of trade regulations. By ensuring procedural neutrality, international trade bodies can prevent biases and favoritism, thereby maintaining the credibility and effectiveness of the international trade system.<sup>14</sup>

In addition to procedural neutrality, there is substantive neutrality, which focuses on the content of the laws and policies themselves. It is concerned with ensuring that the laws are fair and do not favor one country or group of countries over others. This means that the rules and regulations established under international trade law should be designed in a way that they do not inherently benefit certain nations due to their economic or political status. Substantive justice, therefore, is about fulfilling legal rights as regulated by law to achieve fairness in the actual material content of the laws.<sup>15</sup>

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<sup>11</sup> Lautenbach, Geranne, “The Rule of Law Concept”, *The Concept of the Rule of Law and the European Court of Human Rights*, 23 Jan. (2014).

<sup>12</sup> Rafael Arcas, Luis .M, and others, "Climate neutrality and sustainability in international trade", *U. Pa. J. Int'l L.* Vol. 44 No.3, (2023).

<sup>13</sup> Rafael Leal, "International Trade and Sustainability Perspectives from Developing and Developed Countries", (2022).

<sup>14</sup> Carmody Chios, “Fairness as Appropriateness: Some Reflections on Procedural Fairness in WTO Law” in Armin Savarian "Procedural Fairness in International Courts and Tribunals", *British Institute for International and Comparative Law*, (2015).

<sup>15</sup> Hershey, Amos S. “Neutrality and International Law.” *International Journal of Ethics*, Vol 26, no. 2 (1916). Pp. 76-168.

### **A. Emergence the idea of neutrality in the international organization**

International organizations have emerged as indispensable actors on the global stage, addressing a multitude of complex issues in our interconnected world. As the global economy becomes increasingly integrated and technology further intertwines the fate of human communities, international organizations have proliferated in response. They cover almost every issue of broad international concern, often presiding over these matters with a mandate rooted in treaties and conventions. This proliferation has led to a significant expansion of international law and the establishment of numerous international courts and quasi-judicial bodies to adjudicate international disputes.<sup>16</sup>

The importance of these international organizations cannot be overstated in the quest for justice in today's world. They serve as forums where nations come together to address global challenges, from climate change to trade disputes and from public health crises to human rights violations. However, the concept of justice in international organizations is multifaceted and must be evaluated through various lenses.

One crucial aspect of justice within international organizations is neutrality. Neutrality signifies the ability of these organizations to treat all member states fairly and impartially, regardless of their size, economic power, or political influence. The ideal scenario is one where international organizations act as unbiased mediators and facilitators, ensuring that decisions and policies reflect the collective interests of their members. Neutrality is essential for upholding the credibility and legitimacy of these organizations in the eyes of their diverse membership.

Justice within international organizations also encompasses several key principles, including efficiency, legitimacy, democracy, and distributive justice. Efficiency, in this context, pertains to the ability of these organizations to address global problems effectively. It means achieving positive outcomes and enhancing the well-being of multiple communities by coordinating national or sub-national policies. However, the pursuit of efficiency can sometimes raise concerns about whether more powerful states receive preferential treatment, potentially compromising the organization's neutrality.<sup>17</sup>

Legitimacy is another critical aspect of justice. For international organizations to function effectively, they must be perceived as legitimate by their member states. This legitimacy derives from the voluntary participation of nations, driven by the belief that membership is beneficial. Maintaining this perception of legitimacy requires avoiding any bias or favoritism toward specific member states or groups.<sup>18</sup>

Distributive justice, the fair allocation of resources and benefits among member states, is another dimension of justice within international organizations. While these organizations aim to promote fairness, concerns can arise if the distribution of benefits favors more powerful or influential states, leading to questions of equity and justice.<sup>19</sup>

International organizations are indispensable in addressing global challenges and promoting justice in an interconnected world. Neutrality is a fundamental principle that ensures fairness and impartiality among member states. Justice within these organizations involves a delicate interplay of principles like efficiency, legitimacy, democracy, and distributive justice. While achieving perfect balance is complex, adherence to democratic processes, transparency, and accountability mechanisms can help enhance the neutrality and justice of these vital global actors, contributing to a fairer and more equitable global governance system.<sup>20</sup>

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<sup>16</sup> Randall W. Stone, "Controlling institutions: International organizations and the global economy (New York: Cambridge University Press) *The Review of International Organizations*, Vol 7 issue 1, Mar (2012). Pp.109-113

<sup>17</sup> Büthe T., "Controlling Institutions: International Organizations and the Global Economy", By Randall W. Stone. New York: Cambridge University Press, (2011).

<sup>18</sup> Franceschet, Antonio. "Justice and International Organization: Two Models of Global Governance." *Global Governance* 8, issue 1, (2002). Pp. 19–34

<sup>19</sup> Henkin, Louis. "International Organization and the Rule of Law." *International Organization* 23, no. 3 (1969).

<sup>20</sup> Randall W. Stone, "Controlling institutions: International organizations and the global economy (New York: Cambridge University Press) *The Review of International Organizations*, Vol 7 issue 1, Mar (2012). Pp.109-113

## **B. Application of Neutrality principle in the WTO Dispute Settlement Mechanism**

The concept of neutrality is intricately connected to the WTO dispute settlement mechanism, which exemplifies these principles in an international context. The WTO dispute settlement mechanism is designed to provide a fair, transparent, and impartial process for resolving trade disputes between member countries, thereby embodying the essential elements of neutrality.<sup>21</sup>

The procedures and rules governing the WTO dispute settlement process are structured to ensure fairness and transparency, aligning with the principles of neutrality. The Dispute Settlement Understanding (DSU), the legal text that governs the dispute settlement process in the WTO, provides detailed procedural rules that guarantee both complainants and respondents equal opportunities to present their cases. This includes submissions, rebuttals, and hearings that are conducted in a manner ensuring that no party is unduly advantaged or disadvantaged, thereby maintaining the integrity and impartiality of the process.<sup>22</sup>

The institutional framework and legal context of the WTO also play a crucial role in upholding the neutrality of the dispute settlement mechanism. The organization's multilateral nature and its commitment to non-discrimination and the rule of law ensure that the dispute settlement process is insulated from external pressures and biases. This is crucial in maintaining the confidence of WTO members in the dispute resolution system, encouraging them to resolve their trade disputes within this framework rather than resorting to unilateral measures.<sup>23</sup>

In the international arena, the neutrality of the WTO dispute settlement mechanism is paramount in maintaining the legitimacy and credibility of the organization and its agreements. By providing a neutral forum for resolving trade disputes, the WTO helps uphold international trade norms and rules, fostering a stable and predictable trading system. This, in turn, reinforces the principle that disputes should be resolved based on agreed-upon rules rather than power dynamics, thereby contributing to the peaceful resolution of conflicts and the maintenance of global economic stability.<sup>24</sup>

Overall, the WTO dispute settlement mechanism serves as a prime example of how the principles of neutrality are applied in practice within an international dispute resolution context. It highlights the critical role that neutrality plays in ensuring fair, unbiased, and effective resolution of disputes, which is essential for maintaining the rule of law and fostering cooperation among nations.

## **III. Neutrality in international trade and its vital Role of the WTO**

Historically international trade disputes and protectionist policies have often been precursors to diplomatic tensions and even conflicts between nations. By promoting fair and equal treatment of all trading partners, neutrality in international trade reduces the likelihood of international trade-related disputes escalating into broader international conflicts. This not only benefits individual nations but also contributes to a more peaceful and stable world.<sup>25</sup>

The WTO addresses international trade discrimination through its dispute settlement mechanism. Member countries can bring international trade-related disputes before the WTO, allowing for a neutral and impartial resolution process. This prevents nations from unilaterally imposing international trade sanctions or

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<sup>21</sup> Carmody Chios, "Fairness as Appropriateness: Some Reflections on Procedural Fairness in WTO Law" in Armin Savarian "Procedural Fairness in International Courts and Tribunals", British Institute for International and Comparative Law, (2015).

<sup>22</sup> Aileen Kwa, "Power Politics in the WTO", CUSRI, Chulalongkorn University Bangkok, THAILAND, Jan (2003).

<sup>23</sup> Ruyi Xiao, "An Analysis of the Merits and Demerits of the World Trade Organization's Dispute Settlement Mechanism System and the Disadvantageous Position of Developing Countries in it", Global Finance Review, Vol 4, Issue 1, (2022).

<sup>24</sup> Guzman, Andrew T. "Determining the Appropriate Standard of Review in WTO Disputes," Cornell International Law Journal: Vol 42, Article 3. (2009).

<sup>25</sup> Büthe T., "Controlling Institutions: International Organizations and the Global Economy", By Randall W. Stone. New York: Cambridge University Press, (2011).

retaliatory measures, promoting a rules-based approach to international trade and maintaining neutrality in the face of disputes.<sup>26</sup> Moreover, the WTO plays a critical role in promoting transparency and predictability in international trade.<sup>27</sup>

The importance of neutrality in international trade cannot be understated. It serves as the bedrock of a fair, open, and peaceful global economic system. The WTO via its principles, agreements, and dispute settlement mechanisms, plays a vital role in maintaining and promoting international trade neutrality. By upholding the principles of equality, fairness, and transparency, the WTO contributes to economic growth, stability, and peace on a global scale, benefiting nations and their citizens alike.<sup>28</sup>

#### ***A. Neutrality and Non-Discrimination in International Trade: Foundations and Impact on Global Commerce***

Neutrality in trade regulations and the non-discrimination principle are fundamental concepts in international trade law and policy. They both play a crucial role in promoting fairness and equity in global commerce while also contributing to the stability of the international trading system. To understand these principles, it is essential to delve into their definitions, historical development, and their significance in contemporary trade relations.<sup>29</sup>

Neutrality in trade regulations refers to the idea that countries should enact and enforce trade rules and regulations without favoring or discriminating against specific trading partners or domestic industries. In other words, trade regulations should be applied uniformly and consistently to all countries and entities engaged in international trade. This principle is rooted in the belief that a level playing field is essential for fostering fair competition and ensuring that all market participants have equal opportunities to access foreign markets and compete globally.<sup>30</sup>

The non-discrimination principle, on the other hand, encompasses two main concepts: Most-Favored-Nation (MFN) treatment and National Treatment. The MFN treatment requires that a country extends to all its trading partners the same favorable trade terms and conditions that it grants to its most favored trading partner. In essence, this means that if a country offers a specific tariff rate or market access benefit to one trading partner, it must offer the same terms to all other trading partners. National Treatment, on the other hand, mandates that once foreign goods or services have entered a country's market, they must be treated on equal footing with domestic goods or services. This principle ensures that imported products are not subjected to discriminatory treatment, such as higher taxes or regulatory burdens, in comparison to domestic equivalents.<sup>31</sup>

The historical development of these principles can be traced back to the General Agreement on Tariffs and Trade (GATT), which served as the precursor to the WTO. The GATT, established in 1947, laid the foundation for modern international trade rules and was based on the principles of non-discrimination and reciprocity. It aimed to reduce trade barriers, eliminate discrimination among trading partners, and promote free and fair trade.<sup>32</sup>

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<sup>26</sup> Matteo Fiorini, Bernard M. Hoekman, Petros C. Mavroidis, Maarja Saluste & Robert Wolfe, WTO Dispute Settlement and the Appellate Body Crisis: Insider Perceptions and Members' Revealed Preferences, 54 *Journal of World Trade* 667 (2020).

<sup>27</sup> Jo-Ann Crawford, "Regional trade agreements and the WTO", *The North American Journal of Economics and Finance*, Vol 12, Issue 2, July (2001), Pp. 193-211

<sup>28</sup> Amrita Narlikar, "Fairness in International Trade Negotiations: Developing Countries in the GATT and WTO", *The world economy*, Vol 29, Issue 8, 12 July (2006).

<sup>29</sup> Vranes, Erich, "Non-Discrimination and Justification in the GATT", *Trade and the Environment: Fundamental Issues in International Law, WTO Law, and Legal Theory*", *International Economic Law Series*, 1 May (2009).

<sup>30</sup> Cinzia Carta, "Companies' policies of neutrality and the principle of non-discrimination", *Variazioni su Temi di Diritto del Lavoro*, Jul (2023).

<sup>31</sup> Britannica, T. "Most-favoured-nation treatment." *Encyclopedia Britannica*, March 20, (2023).

<sup>32</sup> Marc L. Busch & Eric Reinhardt "Testing International Trade Law: Empirical Studies of GATT/WTO Dispute Settlement", *Queen's School of Business, Queen's University*, Aug 14, (2000).

The GATT evolved into the WTO in 1995, with its principles of neutrality and non-discrimination remaining at the core of the international trading system.<sup>33</sup> The WTO Agreement includes the General Agreement on Trade in Goods (GATT), which upholds MFN and National Treatment, as well as agreements covering services and intellectual property (TRIPS), all of which adhere to these principles. Moreover, the Dispute Settlement Mechanism of the WTO ensures that member countries abide by these principles and provides a forum for resolving trade disputes related to discriminatory practices.

The significance of neutrality in trade regulations and the non-discrimination principle in contemporary trade relations cannot be overstated. These principles create predictability and stability in international trade, as countries can trust that their trading partners will not unfairly discriminate against them. By treating all trading partners equally, these principles help prevent trade wars, protect the interests of smaller or less powerful countries, and foster an environment where trade can flourish.<sup>34</sup>

Furthermore, these principles have been instrumental in addressing emerging trade challenges, such as the rise of digital commerce and the need for a level playing field in the global economy. They have also facilitated the integration of developing countries into the global trading system by ensuring that they receive fair and non-discriminatory treatment from more developed nations.

Neutrality in trade regulations and the non-discrimination principle are foundational concepts in international trade law and policy. They have their roots in historical agreements like the GATT and continue to be central to the functioning of the WTO. These principles ensure that countries treat their trading partners fairly, do not discriminate against foreign products or services, and contribute to a more predictable and stable international trading system. They are crucial for promoting equitable global commerce and fostering economic growth and development worldwide.<sup>35</sup>

## **B. The Role of Neutrality and Special and Differential Treatment in the WTO**

The WTO is vital in shaping international trade policies, with its framework emphasizing concepts like "neutrality" and "Special and Differential Treatment provisions". These concepts are vital for ensuring fair and equitable treatment in global trade, though they serve distinct purposes and operate differently.<sup>36</sup>

Neutrality within the WTO is primarily about the principle of non-discrimination, which is considered a foundation of the WTO's trading ethos. This is manifested through policies such as the Most Favored Nation treatment and National Treatment. The MFN Treatment requires WTO members to extend the same trade conditions to all other members. For instance, if a country offers a lower customs duty rate to one trading partner, it must do the same for all WTO members. This principle is aimed at ensuring equal trading opportunities for all member countries and eliminating discrimination. National Treatment, on the other hand, focuses on ensuring that imported goods are treated no less favorably than domestic goods within a member's market, aiming to prevent discrimination between imported and local products.<sup>37</sup>

In contrast, the WTO's Special and Differential Treatment provisions for developing countries recognize the unique challenges they face in global trade. These provisions include allowing longer timeframes for these countries to implement WTO agreements acknowledging their need for more time to develop the necessary capacities.<sup>38</sup> They also encompass measures to increase trading opportunities for developing countries, such

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<sup>33</sup> Vranes, Erich, "Non-Discrimination and Justification in the GATT", *Trade and the Environment: Fundamental Issues in International Law, WTO Law, and Legal Theory*, International Economic Law Series, 1 May (2009).

<sup>34</sup> Nicolas F Diebold, "Standards of non-discrimination in international economic law", *ICLQ*, vol 60, Oct (2011). Pp. 831–865

<sup>35</sup> Cinzia Carta, "Companies' policies of neutrality and the principle of non-discrimination", *Variazioni su Temi di Diritto del Lavoro*, Jul (2023).

<sup>36</sup> Gregory Shaffer, "How to make the WTO Dispute Settlement System Work for Developing Countries: Some Proactive Developing Country Strategies", (2005).

<sup>37</sup> J.H.H. Weiler, Sungjoon Cho, Isabel Feichtner, Julian Arato, "International and regional trade law: the law of the World Trade Organization, The Most-Favored Nation (MFN) Principle", (2017).

<sup>38</sup> Sheila Page & Peter Kleen. "Special and Differential Treatment of Developing Countries in the World Trade Organization", *Global Development Studies*, EGDI Secretariat, Ministry for Foreign Affairs, Sweden, (2005).



as allowing developed countries to offer trade preferences. This is intended to enhance market access for products from developing countries and foster their economic growth. Additionally, these provisions mandate all WTO members to consider the trade interests of developing countries, taking their specific needs into account when implementing trade measures. Moreover, the WTO provides technical assistance and training to developing countries, helping them to participate in the WTO system effectively.

Balancing neutrality and Special and Differential Treatment are a significant challenge for the WTO. While neutrality aims to establish a level playing field, S&D provisions recognize different countries' varying capacities and development levels, necessitating customized integration approaches into the global trading system. This balance is often a topic of negotiation and debate within the WTO. Developed countries sometimes view S&D provisions as creating unfair advantages and distorting competition. Conversely, developing countries argue these provisions are crucial for equitable and sustainable development and their meaningful global economy participation.<sup>39</sup>

The WTO's approach to neutrality and Special and Differential Treatment provisions is an effort to harmonize the sometimes-conflicting objectives of fairness and equity in international trade. Neutrality seeks to ensure equal treatment for all members, while S&D provisions acknowledge the need for additional support for developing countries to compete effectively in the global market. The ongoing challenge for the WTO is to maintain this balance, promoting global trade while addressing the developmental needs of its diverse membership.<sup>40</sup>

### **C. Neutrality in WTO Dispute Settlement: Upholding Fairness and Integrity in Global Trade**

Neutrality in international trade dispute settlement is a fundamental principle that underpins the functioning of the WTO. Neutrality is one of the core principles that guide the WTO's dispute settlement mechanism, ensuring fairness and impartiality in resolving disputes among its member states.<sup>41</sup>

The neutrality in trade dispute settlement is crucial for maintaining the integrity of the global trading system. WTO is based on the principle that all member countries, regardless of their economic size or political influence, should have equal access to a fair and impartial forum to address trade-related grievances. This principle is enshrined in the Dispute Settlement Understanding (DSU), which is part of the WTO agreements. The DSU sets out the rules and procedures for resolving trade disputes, and it emphasizes the importance of neutrality throughout the process.<sup>42</sup>

One of the key aspects of neutrality in WTO dispute settlement is the composition of the dispute settlement panels. Panels are established to hear and adjudicate on trade disputes brought before the WTO. The members of these panels are chosen from a roster of qualified individuals who have no direct stake in the dispute and are expected to act impartially. Panelists are selected based on their expertise in trade law and their commitment to upholding the principles of the WTO. This ensures that the panel's decisions are made without bias and are in accordance with WTO rules and agreements.<sup>43</sup>

Furthermore, the WTO's Appellate Body plays a crucial role in upholding neutrality in dispute settlement. When a party to a dispute appeals a panel's decision, the Appellate Body reviews the legal aspects of the case. The members of the Appellate Body are also chosen for their expertise and independence. They serve

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<sup>39</sup> Conconi, P. and Perroni, C. "Special and differential treatment of developing countries in the WTO", *World Trade Review*, Vol. 14 No. 1, (2015).

<sup>40</sup> Aniekan Ukpe, Sangeeta Khorana, "Special and differential treatment in the WTO: framing differential treatment to achieve (real) development", *Journal of International Trade Law and Policy*, 26 May (2021).

<sup>41</sup> Jackson, John H., Robert E. Hudec, and Donald Davis. "The Role and Effectiveness of the WTO Dispute Settlement Mechanism [with Comments and Discussion]." *Brookings Trade Forum*, (2000). Pp. 179–236

<sup>42</sup> Cameron, James, and Kevin R. Gray. "Principles of International Law in the WTO Dispute Settlement Body." *The International and Comparative Law Quarterly* 50, no. 2 (2001). Pp. 98-248.

<sup>43</sup> Amrita Narlikar, "Fairness in International Trade Negotiations: Developing Countries in the GATT and WTO", *The world economy*, Vol 29, Issue 8, 12 July (2006).

fixed terms and are not affiliated with any member country. Their role is to provide a final and binding ruling on the legal issues raised in the dispute, thus further ensuring that the dispute settlement process remains neutral and impartial.<sup>44</sup>

The transparency and openness of the WTO's dispute settlement process also contribute to its neutrality. All proceedings, including hearings and submissions, are made public unless the parties involved request otherwise. This transparency allows other WTO members and interested stakeholders to monitor the proceedings, ensuring that disputes are resolved in a fair and accountable manner.

Additionally, the DSU sets strict timelines for the resolution of trade disputes, which helps prevent undue delays that could favor one party over another. This commitment to timely resolution adds to the perception of neutrality in the WTO's dispute settlement system.

Neutrality in international trade dispute settlement through the WTO serves to maintain trust among member countries and to foster a stable global trading environment. By providing a fair and impartial forum for resolving trade disputes, the WTO helps prevent unilateral actions, trade wars, and retaliation, which can be detrimental to international commerce. It encourages members to abide by agreed-upon trade rules and facilitates the peaceful resolution of disputes, ultimately contributing to economic stability and prosperity on a global scale.<sup>45</sup>

The role of the WTO in ensuring neutrality in international trade dispute settlement is fundamental to its mission of promoting a rules-based international trading system. The organization achieves this neutrality through the careful selection of panelists and Appellate Body members, transparent procedures, and a commitment to timely resolution. This neutrality helps maintain trust and confidence among member countries, fostering a peaceful and predictable global trading environment that benefits all participants.<sup>46</sup>

#### **IV. Challenges to the WTO neutrality principle**

The WTO plays a pivotal role in overseeing and regulating international trade. However, its ability to maintain neutrality is increasingly challenged by various factors. These challenges include geopolitical tensions leading to trade wars, economic disparities among member nations, protectionist policies fueled by national interests, the complexity introduced by Regional Trade Agreements (RTAs), environmental and social concerns, the interplay of politics and trade, and the disproportionate influence of major economies. Each of these aspects poses distinct obstacles to the WTO's principle of neutrality and fair trade, making it difficult for the organization to balance the diverse interests of its member countries while adhering to its founding principles. The WTO's effectiveness and credibility depend on its ability to navigate and address these multifaceted challenges in the dynamic landscape of global trade. The WTO neutrality challenges can be analyzed in the following context.

##### **A. Trade Wars and Protectionism**

The WTO plays a crucial role in regulating international trade. Still, its position as a neutral arbiter is increasingly challenged by the rise of trade wars and protectionism. These challenges stem from various factors, including geopolitical tensions, economic disparities, and diverging national interests. Which can be analyzed as follows:

Trade wars, often sparked by geopolitical tensions, significantly challenge the WTO's neutrality. For instance, when major economies like the United States and China impose tariffs on each other, it disrupts global trade norms. These trade wars are not just about economic interests but also power and influence. The

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<sup>44</sup> Matteo Fiorini, Bernard M. Hoekman, Petros C. Mavroidis, Maarja Saluste & Robert Wolfe, WTO Dispute Settlement and the Appellate Body Crisis: Insider Perceptions and Members' Revealed Preferences, 54 *Journal of World Trade* 667 (2020).

<sup>45</sup> Rafael Arcas, Luis .M, and others, "Climate neutrality and sustainability in international trade", *U. Pa. J. Int'l L.* Vol. 44 No.3, (2023).

<sup>46</sup> Rafael Leal, "International Trade and Sustainability Perspectives from Developing and Developed Countries", (2022).

WTO, designed to resolve trade disputes through dialogue and adherence to established rules, finds its authority and effectiveness questioned when countries resort to unilateral actions. The WTO consensus-based decision-making process can be stalled by the conflicting interests of its powerful members, which affects its ability to act as an impartial mediator.<sup>47</sup>

Another challenge to the WTO's neutrality is the economic disparity between its member nations.<sup>48</sup> Developing countries often argue that they need more flexible trade rules to protect their nascent industries. This has led to debates about the principle of "special and differential treatment" within the WTO, which allows for more lenient trade rules for developing nations. However, some developed countries view this as an unfair advantage, leading to accusations of bias within the WTO. Balancing the needs of both developed and developing countries while maintaining an unbiased stance is a significant challenge for the WTO.<sup>49</sup>

The rise of protectionism, fueled by nationalistic policies, presents a direct challenge to the WTO's principles of free and fair trade. Countries are increasingly prioritizing their national interests over international commitments, leading to practices like import tariffs, export subsidies, and non-tariff barriers. These protectionist measures not only hamper global trade but also put the WTO in a difficult position, as it must navigate the fine line between respecting national sovereignty and enforcing global trade rules. The tension between national interests and global trade norms is a persistent issue that the WTO must address.<sup>50</sup>

The WTO's dispute resolution mechanism, once considered one of its strongest pillars, faces its own set of challenges. The Appellate Body, responsible for hearing appeals in trade disputes, has been hampered by member countries, particularly the United States, blocking the appointment of new judges. This has led to a backlog of cases and questions about the efficacy of the WTO's dispute resolution process. The inability to promptly and effectively resolve disputes undermines the WTO's role as a neutral arbiter and affects its credibility.<sup>51</sup>

The WTO faces significant challenges in maintaining its neutrality amidst the rise of trade wars and protectionism. Geopolitical tensions, economic disparities, national interests, and institutional hurdles all play a part in these challenges. The WTO's ability to adapt and address these issues will be crucial for its future as a pillar of international trade governance. It's a delicate balancing act between accommodating the diverse interests of its member countries and upholding the principles of free and fair trade.

## **B. Regional Trade Agreements**

The advent of Regional Trade Agreements (RTAs) has presented considerable challenges to the WTO's foundational principle of neutrality. These challenges manifest in various ways, significantly impacting the global trade landscape.<sup>52</sup>

A primary concern is the erosion of the Most-Favored-Nation (MFN) principle, a cornerstone of the WTO's trade policy. The MFN clause mandates that any trading advantage a WTO member country extends to another must be available to all WTO members.<sup>53</sup> RTAs, however, inherently conflict with this principle. By offering favorable trade terms exclusively among their members, RTAs create an uneven playing field, where certain countries benefit at the expense of others. This selective favoritism disrupts the fairness of the

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<sup>47</sup> Gary P Sampson, "Challenges Facing the World Trade Organization: An Overview", *Australian Economic Review*, Vol 51, Issue 4, Dec (2018). Pp. 453-473

<sup>48</sup> Giga Abuseridze, "Role of the WTO in the Development of International Trade and Economic Sustainability", *Rīga Stradiņš University, Faculty of Law, Latvia, RSU elektroniskais juridisko zinātnisko rakstu žurnāls* Vol. 3 (21), (2021).

<sup>49</sup> Guzman, Andrew T. "Determining the Appropriate Standard of Review in WTO Disputes," *Cornell International Law Journal*: Vol 42, Article 3. (2009).

<sup>50</sup> Albertoni, N. D. "A Historical Overview of the 21st-Century Protectionism: How did we arrive at this point?", *Latin American Journal of Trade Policy*, Vol 4, issue 10, (2021) 5–23.

<sup>51</sup> Matteo Fiorini, Bernard M. Hoekman, Petros C. Mavroidis, Maarja Saluste & Robert Wolfe, *WTO Dispute Settlement and the Appellate Body Crisis: Insider Perceptions and Members' Revealed Preferences*, 54 *Journal of World Trade* 667 (2020).

<sup>52</sup> ASJA S, Yuri D, "The World Trade Organization and regional trade Agreements: Bridging the Constitutional", *Duke Journal of Comparative & International Law*, Vol 18 issue 1, (2007).

<sup>53</sup> Britannica, T. "Most-favoured-nation treatment." *Encyclopedia Britannica*, March 20, (2023).

global trade system, creating a hierarchy that contradicts the WTO's goal of equal trade opportunities for all member states.<sup>54</sup>

Another significant issue is the distortion of trade flows resulting from RTAs. Such agreements can lead to trade diversion, where commerce shifts from more efficient exporters to less efficient ones within the RTA. This shift arises because goods from RTA member countries become more competitively priced due to lower tariffs and other preferential treatments. This phenomenon contradicts the WTO's objective of promoting free trade based on efficiency and competitive advantage, instead fostering a scenario where trade decisions are influenced more by agreements than by market efficiency.

The proliferation of RTAs also introduces complexity and inconsistencies in the global trade system. The multitude of overlapping agreements forms a 'spaghetti bowl' effect, complicating the trading landscape, especially for smaller businesses that might struggle with diverse rules and standards. This complexity, along with inconsistent regulations across various RTAs, can lead to increased operational costs and confusion, undermining the WTO's aim of establishing a clear, predictable global trading environment.<sup>55</sup>

Further complicating matters is the impact of RTAs on multilateral trade negotiations under the WTO. The allure of achieving quicker, tailored outcomes through RTAs may diminish countries' commitment to broader WTO negotiations. This shift in focus can stymie the progress of multilateral trade liberalization and weaken the WTO's role as the central forum for international trade discussions.

Additionally, there's the potential for RTAs to become instruments of economic and political discrimination. While RTAs are permitted under WTO rules, they must cover 'substantially all the trade' between member countries.<sup>56</sup> However, there's a risk that these agreements might be leveraged to create unfair competition and unevenly distribute the benefits of global trade liberalization. Such scenarios could escalate tensions between nations and regions, counteracting the WTO's mission of fostering peaceful international trade relations.<sup>57</sup>

The challenges RTAs pose to the WTO's principle of neutrality are substantial and multifaceted. They lead to unfair trade practices, distort global trade flows, increase complexity in trade relations, and potentially weaken the commitment to multilateral negotiations. Addressing these issues requires a delicate balance between the advantages of regional integration and the overarching aim of a fair, nondiscriminatory global trading system under the WTO. The WTO must adapt to these evolving challenges to remain relevant and effective in the dynamic international trade environment.

### **C. Environmental and Social Concerns**

The challenges that the WTO faces in maintaining neutrality concerning environmental and social concerns are numerous and deeply intricate. As an international body, the WTO's primary role is to regulate trade and ensure smooth, predictable, and free trading among nations. However, this mandate often comes into conflict with the increasing global emphasis on environmental conservation and social welfare.

At the heart of these challenges is the tension between the WTO's commitment to promoting free trade and the need for environmental conservation. Trade liberalization, while beneficial for economic growth and development, can lead to environmental degradation if not properly managed. Increased trade often results

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<sup>54</sup> ASJA S, Youri D, "The World Trade Organization and regional trade Agreements: Bridging the Constitutional", *Duke Journal of Comparative & International Law*, Vol 18 issue 1, (2007).

<sup>55</sup> Jo-Ann Crawford, "Regional trade agreements and the WTO", *The North American Journal of Economics and Finance*, Vol 12, Issue 2, July (2001), Pp. 193-211

<sup>56</sup> Jo-Ann Crawford, "Regional trade agreements and the WTO", *The North American Journal of Economics and Finance*, Vol 12, Issue 2, July (2001), Pages 193-211

<sup>57</sup> Vranes, Erich, "Non-Discrimination and Justification in the GATT", *Trade and the Environment: Fundamental Issues in International Law, WTO Law, and Legal Theory*, International Economic Law Series, 1 May (2009).

in higher levels of production and consumption, which can aggravate environmental issues such as pollution, deforestation, and climate change.<sup>58</sup>

The WTO has been criticized for often prioritizing trade liberalization at the expense of environmental concerns. Environmentalists argue that the WTO's rules and dispute resolution mechanisms can undermine national environmental policies. An example of this is when a country faces challenges at the WTO for implementing stringent environmental regulations, perceived as barriers to trade. This situation has sparked debate about the WTO's capacity to support its member states in achieving sustainable development goals that prioritize environmental health.<sup>59</sup>

### **Social Concerns and Labor Standards**

In addition to environmental issues, social concerns, especially regarding labor standards, pose a significant challenge for the WTO.<sup>60</sup> Critics contend that the organization's focus on reducing trade barriers can inadvertently encourage a "race to the bottom" in terms of labor standards. To attract foreign investment and stay competitive in the global market, countries, particularly in the developing world, might feel compelled to lower their labor standards. This can lead to substandard working conditions, inadequate wages, and infringement of workers' rights.<sup>61</sup>

Traditionally, the WTO has steered clear of issues related to labor standards, leaving them to organizations like the International Labour Organization (ILO). However, there is an increasing call within the international community to integrate labor standards into WTO trade rules, highlighting the intrinsic link between trade and social issues.

Finding a balance between the imperatives of free trade and environmental and social concerns is a significant hurdle for the WTO. The organization often finds itself in a delicate position, balancing the interests of developed countries, which usually push for stricter environmental and labor standards, against those of developing countries, who may see these standards as protectionist barriers hindering their economic growth.<sup>62</sup>

The WTO's struggle to maintain neutrality in the face of environmental and social concerns reflects a broader challenge of reconciling the objectives of economic globalization with the imperative of sustainable development. Tackling these issues requires a nuanced and balanced approach, one that respects the diverse needs and perspectives of all member countries while promoting a collective commitment to a healthier planet and a more equitable global society.

### **D. The Interplay of Politics and global trade system**

The WTO operates at the intersection of global trade and politics, a nexus that often introduces complexity and bias into its functioning. This complexity arises mainly from the fact that the WTO is made up of member states, each harboring its own political agendas and strategies. Such diversity in interests can significantly influence the WTO's decision-making processes and outcomes, often leading to actions that prioritize national objectives over fair trade practices.<sup>63</sup>

One of the most conspicuous manifestations of political influence within the WTO is the use of trade policies as instruments for achieving broader geopolitical goals. Countries may adjust trade measures not

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<sup>58</sup> Marvin Spence, "Trade Liberalization and Environmental Protection", E-International Relations, 15 Mar (2011).

<sup>59</sup> Steve Charnovitz, "The WTO's Environmental Progress", The Journal of International Economic Law, vol 10 issue 3, (2007). Pp. 685-706

<sup>60</sup> Nankivell, T, "Living, labour and environmental standards and the WTO", Staff Working Paper, Productivity Commission, Canberra, Jan (2002).

<sup>61</sup> Emmert, Frank. "Labor, Environmental Standards, and World Trade Law". University of California, Vol10. (2003). Pp.75-167.

<sup>62</sup> Marvin Spence, "Trade Liberalization and Environmental Protection", E-International Relations, 15 Mar (2011).

<sup>63</sup> Pauwelyn, Joost. "The Transformation of World Trade." Michigan Law Review 104, no. 1 (2005).

solely for economic gain but to further diplomatic and political aims. For instance, a nation might reduce trade barriers with allies to fortify diplomatic relations or impose sanctions on countries it deems unfavorable. These politically motivated actions are executed through the channels of trade policy, intertwining trade decisions with political objectives.<sup>64</sup>

In the WTO, the fusion of trade and politics can result in non-neutral or unfair practices. When national political goals overshadow the principles of equitable trade, the outcome can be decisions that deviate from the WTO's ethos of promoting free and fair trade. Power member states can use their influence over WTO dispute resolution to their advantage.

The WTO's consensus-based decision-making, which requires agreement among all its members, further complicates these dynamics. In such a system, countries with substantial political or economic clout can exert influence over less powerful nations, shaping decisions to reflect the interests of a few rather than the collective. Consequently, the policies and agreements within the WTO may not always represent the broader, collective good.<sup>65</sup>

Another factor contributing to bias in the WTO is the lack of transparency in its negotiations and decision-making processes. Insufficient transparency allows member states to pursue negotiations that disproportionately favor their interests, often to the detriment of smaller or less influential countries. This opacity can also fuel perceptions of bias and unfairness, thereby undermining the WTO's credibility and effectiveness as a global trade regulator.

Despite the WTO aims to foster free and fair global trade, it is not impervious to its member states' political influences and biases. The interplay of trade policies with political objectives, power imbalances among members, and issues with transparency are significant challenges to the WTO's goal of unbiased, equitable decision-making. Overcoming these challenges necessitates a collective effort from all member states to put the principles of fair trade and multilateral cooperation ahead of narrow national interests.

#### **E. Influence of Major Economies power**

The influence of major economies on the WTO presents a significant challenge to its perceived neutrality and effectiveness. The WTO, established to provide a forum for negotiating trade agreements and a place for resolving trade disputes, operates on the principle of consensus among its member states. However, the reality of global economic dynamics often skews this ideal.<sup>66</sup>

The economic power wielded by countries like the United States and members of the European Union is substantial. These entities, due to their massive domestic markets, significant international trade volumes, and financial resources, naturally influence in the WTO. This influence is often seen in the organization's policy-making and dispute-resolution processes. For instance, these major economies can shape trade policies and agreements to their advantage, leveraging their economic power to influence negotiations and outcomes.<sup>67</sup>

The imbalance of power can lead to a perception of bias within the WTO. Smaller and developing nations, which collectively make up a significant portion of the WTO's membership, often find their interests and concerns eclipsed by the larger economies' power. This perception of bias is not just a theoretical concern; it

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<sup>64</sup> Aileen Kwa, "Power Politics in the WTO", CUSRI, Chulalongkorn University Bangkok, THAILAND, Jan (2003).

<sup>65</sup> Vranes, Erich, "Non-Discrimination and Justification in the GATT", Trade and the Environment: Fundamental Issues in International Law, WTO Law, and Legal Theory", International Economic Law Series, 1 May (2009).

<sup>66</sup> Robert Howse & Joanna Langille. "Continuity and Change in the World Trade Organization: Pluralism Past, Present, and Future". American Journal of International Law, Vol 117 issue 1, (2023), Pp1-47.

<sup>67</sup> Kalim Siddiqui. "International Trade, WTO and Economic Development." World Review of Political Economy, Vol 7, issue. 4 (2016). Pp.426.

has practical implications. It can undermine the credibility of the WTO among these nations, leading to questions about the fairness and inclusivity of its processes. This skepticism may deter smaller and developing countries from actively participating in the WTO or relying on it to protect their trade interests.<sup>68</sup>

The disproportionate influence of major economies like the U.S., and the EU poses a significant challenge to the neutrality of the WTO.<sup>69</sup> This influence not only affects the organization's policies and dispute resolution processes but also impacts its credibility and effectiveness.<sup>70</sup>

## **Conclusion**

The WTO is confronted with a myriad of challenges that threaten its foundational principle of neutrality in the global trade system. These challenges range from geopolitical tensions manifesting as trade wars and protectionism to the economic disparities among member nations, which fuel debates over fair trade practices. The rise of Regional Trade Agreements (RTAs) introduces complexities that can undermine the WTO's universal trade norms, while environmental and social concerns demand a balance between trade liberalization and sustainable development. The interplay of politics with trade policies further complicates the WTO's ability to function as an impartial arbiter, as does the disproportionate influence exerted by major economies, which can skew the organization's decisions and policies in favor of more powerful nations.

The cumulative effect of these challenges is a strain on the WTO's credibility and effectiveness as a global trade regulator. To navigate these multifaceted issues, the WTO must adapt and reform in ways that reaffirm its commitment to facilitating fair and equitable trade practices, while also addressing the diverse needs and concerns of its member countries.

By addressing these challenges via thoughtful reforms, the WTO can reinforce its position as a pivotal institution in the governance of international trade, ensuring that it remains a fair, transparent, and effective platform for all its member states.

The WTO should work towards an expeditious and impartial resolution of trade disputes. This requires reforming the Appellate Body, ensuring it is fully functional with an adequate number of judges to address the backlog of cases, thereby restoring confidence in the WTO's ability to mediate disputes fairly.

The WTO should reinforce the principle of "special and differential treatment" for developing and least developed countries. This would entail providing these nations with the necessary leeway to protect their nascent industries while gradually integrating into the global trading system.

The WTO needs to find a harmonious balance between promoting free trade and addressing environmental and social concerns. This could involve more explicit integration of sustainable development goals into trade agreements and encouraging member states to adopt trade practices that are environmentally friendly and socially responsible.

The WTO should strive for greater transparency in its negotiation and decision-making processes. This would involve ensuring that all member countries, regardless of their economic power, have a voice in the formulation of trade policies and agreements. Enhanced transparency will also help demystify the organization's workings, fostering a sense of inclusivity and fairness.

The WTO should work towards a more coherent integration of RTAs within the multilateral trading system to ensure that these agreements complement rather than contradict global trade norms. This could involve setting clearer guidelines for RTAs to prevent trade diversion and ensure that they adhere to the principle of non-discrimination.

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<sup>68</sup> Pascal Lamy, "The World Trade Organization: new issues, New Challenges", French in the En Temps Réel series, 4 Sep (2014).

<sup>69</sup> Ibid

<sup>70</sup> Peter Sutherland and John Sewell, "Challenges facing the WTO and policies to address global governance", 30 Oct (2000).

The WTO should engage in constructive dialogue with major economies to address the perception and reality of their disproportionate influence. This could involve initiatives that highlight the mutual benefits of a multilateral trading system and encourage major economies to champion reforms that enhance the WTO's effectiveness and neutrality.

The WTO should advocate for and facilitate multilateral negotiations and agreements over unilateral actions that lead to trade wars and protectionism. This would involve encouraging member states to resolve their differences within the WTO framework, adhering to established rules and norms.

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