

世貿組織架構及其對台灣外貿之意涵

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中文摘要

本文所稱之世貿組織架構乃指以六項支柱為基礎的多邊貿易體系。此六項支柱分別為：(1)不歧視、單一透明化、去貿易障礙、漸進式自由化原則。(2)互惠原則。(3)具拘束力與強制性規範。(4)共識決之決策機制。(5)安全閥機制。(6)開放的爭端解決機制。此外，本文也指出，在世貿組織的架構下，國際貿易也出現了以下的趨勢：自由化、透明化、去政治化、以會員資格與規範為原則的貿易方式、以聯盟為導向的回合談判、爭端解決制度化以及其他世貿組織所帶來的加乘效果。在如此的環境背景下，本文試著提出一些意涵，作為台灣在拓展其對外貿易與加入世貿組織上能提升自身的利益之參考。

由於未能在二次世界大戰後建立一國際貿易組織，關稅暨貿易總協定已經成為世界貿易組織出現前，管理與規範國際貿易最主要的機制。即使如此，由於冷戰的影響，以關稅暨貿易總協定為原則的國際貿易體系，事實上仍不具全球規模；反而只在西方國家內，推廣貿易自由化與降低貿易障礙方有成效。隨著冷戰的結束，自由化、市場經濟、民主化、國際化與全球化的思維才將貿易自由化的概念帶到世界上的其他地方，尤其是前共產與開發中國家。此外，在如美國、歐盟、日本等貿易強國的帶領下，

一個真正具有全球規模的多邊貿易體系－世界貿易組織－在 1995 年正式成立。世界貿易組織的成立，不但補足了 1944 年成立的布列敦森林體系，戰後國際經濟結構的第三根支柱，更強化以 GATT 為基礎的貿易管理機制。但，更重要的是，這個以世界貿易組織為架構的新貿易體系是如何影響國際貿易的？再者，身為世貿新會員的台灣應該如何因應？

本篇文章首先試著定義與探討世界貿易組織的架構，因其重要性是在於穩定全球貿易系統與維持貿易秩序。此外，為了解全球貿易發展之趨勢，本文將探討世界貿易組織架構對於國際貿易的影響。根據文中以討論過的世貿組織架構與國際貿易之關係，本文最終將討論在邁入 WTO 年代後，某些有利於台灣對外貿易之重要啓發。



WTO Architecture and Implications for Taiwan's Foreign Trade

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Key words : WTO, Taiwan, Foreign Trade

ABSTRACT

This paper first clearly defines the so-called "WTO architecture" as a multilateral trading system built on six underlying pillars: (1) principles of nondiscrimination, single undertaking, transparency, removing trade barriers, and incremental liberalization, (2) the operation norm of reciprocity, (3) binding and enforceable rules, (4) consensus-based decisionmaking mechanism, (5) safety-valve mechanism, and (6) open dispute settlement mechanism. Furthermore, the paper identifies that, under the architecture of the WTO, international trade has following trends: liberalization, transparency, depoliticization, member-based and rule-based world trade, alliance-oriented talks, institutionalization of dispute settlement, and other effects of WTO plus. Under such circumstances, the paper finally provides some implications for Taiwan to extend its foreign trade and maximize its interest in joining the WTO.

Owing to the failure of establishing the International Trade Organization (ITO) right after the World War II, the General Agreement on Tariffs and Trade (GATT) became the major mechanism of managing and regulating international trade before the establishment of the World Trade Organization

(WTO). Even so, under the circumstances of the Cold War the trading system based on the GATT in fact was not global in scale; instead, it was only effective to lower tariffs and promote trade liberalization in western countries. With the end of the Cold War, the thoughts of liberalism, market economy, democratization, internationalization, and globalization further brought the idea of trade liberalization to the rest of the world, particularly those former communist and developing countries. More than that, under the leadership of such powerful trading states as the United States, European Union, and Japan, a truly multilateral trading system with global scale—the WTO—was formally born in 1995. The birth of the WTO not only “completed the third pillar of the post-war international economic architecture that begun at Bretton Woods in 1944,”¹ but also strengthens the GATT-based mechanism for trade management. But, more importantly, how would the new trading system built on the current architecture of the WTO affect international trade? And how should Taiwan, as a new WTO member, respond?

More specifically, this paper first tries to explore and define “the architecture of the WTO,” which underpins the global trading system and maintains the global trading order. In addition, the paper examines the impacts of the WTO architecture on international trade to see the trends of global trade development. Based on the identified relations between the WTO architecture and international trade, the paper finally

¹ Gilbert Winham and Anna Lanoszka, “Institutional Development of the WTO,” in Alan M. Rugman and Gavin Boyd, ed., *The World Trade Organization in the New Global Economy*. (Northampton, MA: Edward Elgar, 2001), 23.

identifies some implications that are crucial to Taiwan's foreign trade in the WTO era.

The Architecture of the WTO

Although the WTO builds on the evolution of the GATT, the WTO differs in a number of important aspects from the old GATT. For instance, GATT was ad hoc and provisional, but the WTO and its agreements are permanent. GATT had "contracting parties," but the WTO has "members." GATT primarily dealt with trade in goods, but the WTO covers services, intellectual property, and more.² However, the most important difference is that GATT is an international agreement, never ratified in members' parliaments; the WTO is a rule-based international organization invested with a legal personality and organizational presence.³ In other words, unlike GATT, the WTO embodies a "rule-oriented approach" to establish a framework for multilateral cooperation in trade.⁴ But, what does the architecture or framework of this rule-based institution look like? What are the main pillars supporting the architecture? Except for using such terms as "WTO architecture" or "WTO framework" heavily, there has been very little discussion on these questions

² The World Trade Organization, *Introduction to the WTO* (Geneva: WTO Publications, 2001), 14.

³ According to the Article VIII of the Agreement Establishing the World Organization, "The WTO shall have legal personality, and shall be accorded by each of its Members such legal capacity as may be necessary for the exercise of its functions."

⁴ Contrasting to a results-oriented approach, the WTO sets a framework for trade policies and doesn't specify or define outcomes. Bernard M. Hoekman and Michel M. Kostecki, *The Political Economy of the World Trading System*, 2ed. (New York: Oxford University Press, 2001), 29.

since the birth of the WTO. This section thus tries to explore the architecture of the WTO by identifying its major pillars.

Pillar 1: Underlying Principles

“Principles” are used to mean “beliefs of fact, causation, and rectitude”⁵ in the formation of international cooperation or operation of international organizations.

Usually, specific principles also serve as the original ideas, accepted values, operational beliefs, and development guidance of an international organization. In terms of the WTO, there are five underlying principles embedded in the institution of the WTO.

1) Nondiscrimination: Most-Favored-Nation (MFN) and National Treatments

The WTO continues the major GATT principle of nondiscrimination; that is, any barrier or treatment to trade should be applied equally to all members.⁶ More specifically, the principle of nondiscrimination encompasses two components: the most-favored-nation (MFN) rule and the national treatment principle. The MFN rule requires that any liberalization measures, with some exceptions, should be granted to all members. In other words, each member cannot normally discriminate between all other members; instead, should treat them equally as “most-favored” trading partners.⁷ Furthermore,

⁵ Stephen D. Krasner, “Structure Causes and Regime Consequences: Regime as Intervening Variables.” In Stephen D. Krasner, ed., *International Regimes* (Ithaca, NY: Cornell University Press, 1983), 2.

⁶ Alan M. Rugman, “The World Trade Organization and the International Political Economy,” in Alan M. Rugman and Gavin Boyd, ed., *The World Trade Organization in the New Global Economy*. (Northampton, MA: Edward Elgar, 2001), 4.

⁷ The World Trade Organization. *Introduction to the WTO*, 5.

to ensure that liberalization commitments are not offset through the imposition of domestic policies and measures like taxes, the principle of national treatment requires that each member should treat imported and locally-produced goods and services equally.⁸ Both MFN and national treatment principles are based on the idea of nondiscrimination and embedded in the main WTO rules on goods, services, and intellectual property.

2) Single Undertaking

Another underlying principle adopted by the WTO, instead of coming from GATT, is the “single undertaking,” which asks WTO members to accept all the provisions of WTO agreements, such as the GATT 1994, GATS, TRIPs and other corollary agreements. In the past, GATT used to provide great flexibility for countries (particularly for developing countries) to “opt out” of new disciplines; however, under the WTO this is no longer the case.⁹

3) Removing Trade Barriers

The principle of removing trade barriers basically includes the reduction of both tariff and nontariff trade barriers (NTBs). Although the GATT had lowered tariff barriers significantly after eight rounds of negotiations, the WTO asks members to commit to the further reduction of tariff barriers and subjects their commitments to legal binding. In addition, the WTO requires that members should reduce and eliminate nontariff trade barriers that encompass such practices as quotas, bans, export and import licensing, trade-related subsidies, and state trading monopolies.

⁸ Ibid, 6.

⁹ Bernard Hoekman, Aaditya Mattoo, and Philip English, eds., *Development, Trade, and the WTO: A Handbook* (Washington, DC: The World Bank, 2002), 45-46.

4) Transparency

Accurate, timely and adequate information is the key to both the enforcement of commitments and the continuance of cooperation. The principle of transparency thus has been incorporated into WTO agreements and become a legal obligation, embedded in such provisions as the Article X of the GATT and Article III of the GATS, obligating members to announce and update their trade policies and measures. To facilitate the principle of transparency, the WTO also adopts the Trade Policy Review Mechanism (TPRM) to periodically review and publish members' trade policies.

5) Progressive Liberalization

Following GATT's approach of trade round talks, the WTO understands that trade liberalization or removing trade barriers can never be accomplished overnight. Progressive (or gradual) liberalization through periodical negotiations thus again employed by the WTO. Especially after more and more developing and least-developed countries joining the WTO, the principle of progressive liberalization is increasingly important since most of them lack the capacity to handle rapid market openness.

Pillar 2: Operation Norm

"Norms" have been a very essential variable in analyzing international cooperation and international institutions/organizations because they are "standards of behavior defined in terms of rights and obligations."¹⁰ International organizations with different nature and purposes as a result have their specific operation norms so as to determine members' obligations and rights under the international

¹⁰ Stephen D. Krasner, *Ibid.*

organizations. For the WTO, "reciprocity," defined as "mutual or correspondent concession of advantages or privileges, as forming a basis for the commercial relations between two countries,"¹¹ can be seen as the primary norm underpinning the WTO operation. This is because WTO is like a barter market wherein members commit with each other to trade liberalization and market openness based on the concept of reciprocity. Under the circumstances of reciprocal consideration, members' concessions will obtain correspondent concession of advantages or privileges, which may also enhance the control of free riding. Additionally, the consequence of quid pro quo caused by reciprocity is helpful to balance domestic winners and losers. More importantly, reciprocity not only provides incentives for members to make concessions and carry out commitments, but also endows legitimacy for punishing or sanctioning commitment violators.¹² Therefore, the preamble of the Marrakech Agreement that established the WTO clearly states that members should be desirous of contributing to WTO objectives by "entering into reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade." In short, reciprocity has become the norm to determine members' obligations and rights under the WTO. In spite of this, the operational logic behind reciprocity respects the autonomy of participants; that is, each member is sovereign to determine "what is reciprocal" or "what is mutually advantageous" for itself in negotiations.¹³

Pillar 3: Legal Rules

¹¹ *The Oxford English Dictionary*.

¹² Bernard Hoekman, Aaditya Mattoo, and Philip English, eds., *ibid.*, 50-55.

¹³ *Ibid.*, 51.

In most cases, “rules” refer to “specific prescriptions or proscriptions for action.”¹⁴ Based on the principle of nondiscrimination and the norm of reciprocity, the WTO believes that liberalization commitments, consensus or agreements will have little value if no legal rules with binding power to enforce. In view of that, legal rules are another basic pillar to construct the architecture of the WTO. This is also the reason for the WTO to adopt the principle of “single undertaking,” i. e., all WTO agreements applying to all members. More to the point, to make the pillar effective and supportive, the WTO, as an international legal person, possesses enforcement capacity to discipline violations as well as to arbitrate or settle disputes. In other words, all provisions of WTO agreements are binding and enforceable.

Pillar 4: Decision-making Mechanism

Featuring with reciprocity, “[m]ost decisionmaking in the WTO follows GATT practices and is based on consultation and consensus.”¹⁵ This is because the conception of the reciprocity depends on consensus building, without any specified criteria. Consultation and consensus making hence become acceptable decision-making mechanism in GATT/WTO multilateral trading system. This kind of decision-making procedure on the one hand could prevent super powers’ predominance; on the other hand, it could enhance smaller countries’ negotiating leverage, especially if they are able to form coalitions. Despite stressing consensus

¹⁴ Stephen D. Krasner, *Ibid.*

¹⁵ Bernard Hoekman, Aaditya Mattoo, and Philip English, eds., *ibid.*, 48. The Article IX of the Agreement Establishing the WTO also states, “The WTO shall continue the practice of decision-making by consensus followed under GATT 1947.”

building, voting is also allowed while a consensus cannot be reached. Although in practice voting occurs only very rarely, it is based on the principle of "one member, one vote" if a vote is needed. Different issues require different kinds of majority vote to make decisions. But, basically unanimity is required for such significant issues as amending general principles like MFN or national treatments. A three-quarters majority vote is needed to waive a member's obligations imposed by WTO agreements or adopt an interpretation of the provisions of WTO agreements. Overall, the decision-making mechanism, based on consensus and supplemented by voting, serves as another key pillar for the operation of the WTO.

Pillar 5: The Mechanism of Safety Valves

The fifth pillar to support the WTO architecture is the mechanism of safety valves. Because not every member can handle trade liberalization or market openness without problems or troubles, safety valves are designed to provide time and room for adjustment or to prevent injury caused by trade distortion. That is, through the mechanism, members are able to restrict trade in specific circumstances.¹⁶ On the whole, under the WTO there are three types of provisions in this connection. The first category refers to those allowing for the use of trade measures to achieve non-economic objectives, including provisions allowing exemptions to protect public health or national security (e. g., the Article XX of GATT 1994). The second category mainly covers those articles aimed at ensure "fair competition," such as the right to impose antidumping taxes on dumped imports and countervailing duties on subsidized imports. Finally, there is a group of provisions that allow governmental interventions in


¹⁶ Bernard Hoekman, Aaditya Mattoo, and Philip English, eds., *ibid.*, 44.

trade to safeguard injured or infant industries from foreign competition.

Pillar 6: The Mechanism of Dispute Settlement

Without a means of addressing violations and settling disputes, the rule-based system would be worthless because the rules could not be enforced. By the same token, lacking an effective mechanism of dispute settlement would be meaningless for rule-based WTO trading system since violations or disputes would cause discordant relationship among trading partners and thereby injure the multilateral trading system. To protect and smooth the operation of WTO trading system, a mechanism of dispute settlement is needed to ensure members' rights endowed by agreements and mediate trade-related disputes among members. The mechanism of dispute settlement as a consequence becomes another key pillar for the WTO architecture.

The idea of dispute settlement started from the GATT, but oftentimes dispute settlements under the GATT were handled through political rather than legal resolutions. The WTO continues GATT's spirit of settling disputes, but largely strengthens the judiciary capacity of the dispute settlement body and underscores the rule of law in settling disputes. The most significant improvement is to quit the principle of consensus and adopt the principle of negative consensus in settling disputes. This moves the dispute settlement from diplomatic/political to legal orientation as well as allows smaller or weaker members to secure interests through a "rule-oriented" rather than a "power-oriented" mechanism. Without such mechanism, it is believed the architecture of the WTO cannot be formed.



In summary, this paper believes that the so-called "WTO architecture" was built on the following six concrete pillars: (1) underlying principles including nondiscrimination, single undertaking, removing trade barriers, transparency, and progressive liberalization; (2) the operation norm of reciprocity; (3) binding and enforceable rules; (4) consensus-based decisionmaking mechanism; (5) the mechanism of safety valves; and (6) the mechanism of dispute settlement. Among others, principles of nondiscrimination, MFN rule, and national treatment not only serve as the spiritual guidance for the WTO, but also widely penetrate into WTO agreements. The norm of reciprocity plays the role to define rights and obligations, and at the same time makes consultations and negotiations the chief operational way under the WTO. Legal rules are the substantial content in the WTO architecture. Safety valves and dispute settlement mechanisms are like preventive facilities to avoid the collapse of the architecture. These six pillars tie with one another and constitute the current architecture of the WTO trading system.

WTO Architecture and International Trade

Trade liberalization and market openness have tremendously transformed the global economic landscape in the past half of a century. Compared to 7% in the 1950s and about 32% in the 1970s, today there are over 45% of global output is now exported.¹⁷ Trade in both goods and services also grew twice as fast as global GDP over the recent decades.¹⁸ The

¹⁷ Dilip K. Das, "Morphogenesis of the Global Trading System in An Evolving International Economic Environment," (July 2002): 8. Available from <http://www.cid.harvard.edu/cidtrade/papers/dasjuly2002.pdf>

¹⁸ Ibid.

global economy as a result became more integrated. The GATT/WTO system might not be the only factor for this transformation. However, the aforementioned and defined “WTO architecture” must have some noticeable and considerable impacts on international trade. Certainly the extent of the impacts may differ in different countries and in different contexts. On the whole, nevertheless, the impacts generated by the WTO architecture on international trade can be identified and analyzed through the following different aspects.

Liberalization and Transparency

The underlying principles (such as nondiscrimination, MFN rule, national treatment, transparency, and so on), the norm of reciprocity, and legal rules of the WTO are mainly applied to facilitate trade liberalization. And, in fact, international trade has become increasingly open and liberal due to the tariff reduction and diminishing trade barriers. For instance, “during the first five GATT Rounds (1948-63), weighted average of tariff reduction was 36%. During the Kennedy Round (1964-67) they were further slashed by 37%. During the Tokyo Round (1973-79) they were again brought down by 33% and during the Uruguay Round (1986-94) by 38%.”¹⁹ So far (2003) the WTO has incorporated 146 members, with different levels of economic development, under its architecture of trade liberalization. The future of global trade liberalization would largely depend on the development of the WTO system.

In addition to trade liberalization, the WTO architecture improves the transparency for international trade. Based on the principle of transparency, WTO members have to offer as well as to provide the access to adequate and updated information on

¹⁹ Ibid.

trade policies or measures for other members. As well, through the trade policy review mechanism, the WTO periodically reviews and publishes members' trade policies.²⁰ The review mechanism has fostered transparency and enhanced communication, thereby reducing trade uncertainty and disputes as well as strengthening the multilateral trading system.

Depoliticization

According to the Article XII of the Agreement Establishing the World Trade Organization, "Any State or separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement and the Multilateral Trade Agreements may accede to this Agreement, on terms to be agreed between it and the WTO." In other words, members of the WTO are not confined to traditional political unit, the state, but also include economic entity, separate customs territory. Besides, we could not find the word, sovereignty, throughout WTO agreements. Even the article of accession to the WTO, somewhat with political sensibility, stresses only the "autonomy," instead of "state sovereignty."

Therefore, as a platform for trade negotiations and a mechanism for managing world trade, the WTO indeed succeeds to the spirit of Havana Charter, "not attempt[ing] to take action which would involve passing judgment in any way on essentially

²⁰ Currently, country-specific reviews are conducted on a rotational basis, and the frequency of review is a function of a member's share in world trade. Thus, now the four largest plaers—the European Union, the United States, Japan, and Canada—are subject to review by the WTO every two years. In principle, the next 16 largest traders are subject to reviews every four years, and the remaining members are reviewed every six years.

political matters.”²¹ That is, the WTO regime would like to keep away from politicizing economic affairs, and let all economic entities with full autonomy, including both states and separate customs territories, able to embark trade liberalization without political obstacles. In that way, members under the WTO architecture can interact and negotiate among one another without considering such political issues as state sovereignty, official recognition, or diplomatic relationship. More importantly, this manner of depoliticization can be said to have unknowingly expanded international trade by eliminating political barriers, particularly for members lacking for diplomatic relations.

“Member-based” World Trade

Other than the manner of “depoliticization,” the WTO treats both states (countries) and separate customs territories as “members” with equal status. As the General Agreement on Tariffs and Trade 1994 (GATT 1994) explains, “The references to ‘contracting party’ in the provisions of GATT 1994 shall be deemed to read ‘Member’.” Also, as the explanatory notes of the Agreement Establishing the WTO state, “The terms ‘country’ or ‘countries’ as used in this Agreement and the Multilateral Trade Agreements are to be understood to include any separate customs territory Member of the WTO.” In other words, the relationship among states and separate customs territories under the architecture of the WTO are defined as “inter-member,” rather than “inter-state,” trading relations. So, diplomatic or official ties are not precondition for inter-member trade under

²¹ The Article 86 of Havana Charter states clearly, “The Members recognize that the Organization [ITO] should not attempt to take action which would involve passing judgment in any way on essentially political matters.”

the WTO. And the principle of nondiscrimination all the more enhances the equality among members.

For international trade, the development of "member-based" world trade under the WTO architecture would on the one hand reduce the influence of international powers, and on the other provide bargaining chips and protection for weak members. This may also keep world trade away from the impact of international politics.

Rule-based World Trade

As indicated above, one of WTO architecture's key pillars is to make binding and enforceable rules to regulate members' trading behaviors. As well, the pillar requires each WTO member to "ensure the conformity of its laws, regulations and administrative procedures with its obligations as provided in the annexed Agreements."²² To enforce the rule of law, the principle of single undertaking is employed to further require member to accept all the provisions of WTO agreements. As such, legal regulations/agreements in black and white have forced world trade to be managed by rules.

Alliance-based Talks

Together with its characteristics of depoliticization, member-based world trade, and rule-based world trade, WTO's open membership policy has attracted more than 146 members to join. As the total number of WTO members grows sharply and developing or least-developed members participate in WTO talks more frequently, one-on-one or one-on-many talks seem infeasible. Besides, since the WTO works by consensus, it is difficult for those who act alone to reach a consensus with others.

²² The Article XVI of the Agreement Establishing the WTO.

Therefore, cooperating with one another through alliances or groups to expand influence and ensure shared interests has become the new trend for WTO talks. These groups and alliances were quite flexible. They could be issue or regional-oriented, or be divided according to the degrees of their economic development. Apart from functioning as platforms for information-gathering and circulation, they are places where ideas come up, and often propose various suggestions that are able to facilitate, restrain or even block negotiations.

WTO-Plus Effects

Apart from regulating world trade, the architecture of the WTO could bring about certain outreach or further liberalized impacts on international trade, which are what we called the “WTO plus.” The most apparent WTO plus could be illustrated in the instance of regional trade arrangements (RTAs, including customs unions and free trade area agreements) regulated by WTO rules. RTAs by nature, contravening the MFN principle, indeed are “preferential” trade agreements, which provide discriminatory treatments or trade terms to specific target partners or groupings. Thus, in theory, RTAs violate the most fundamental principle of the GATT/WTO, the nondiscrimination or MFN principle enshrined in the Article I of the GATT. However, thus far three main pegs—GATT Article XXIV, the Enabling Clause, and GATS Article V—in the WTO rules have been used to permit RTAs as exception to the cardinal principle of nondiscrimination. According to the WTO statistics, the GATT received 124 notifications of RTAs in the period 1948-1994; however, since the creation of the WTO in 1995, there have been over 130 additional arrangements covering trade in goods or services notified. If RTAs reportedly planned or already

under negotiation are concluded, the total number of RTAs in force might well approach 300 by the end of 2005.²³

More importantly, beyond traditional plus in lowering tariffs, reducing non-tariff barriers, and creating or diverting trade, most recent RTAs extend the plus to include trade facilitation and economic cooperation. As a consequence, the WTO architecture could have plus effects on international trade for members besides regulating them.

Settling Disputes

Based on the pillar of the dispute settlement mechanism for the WTO, members are required to only follow the rule and procedures in the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) to seek the redress of a violation of obligations or other nullification or impairment of benefits under WTO agreements.²⁴ That is, members should deal with trade disputes through an open, transparent, and rule-based mechanism, instead of other alternatives. With the increase, enforcement, and complexity of WTO rules, there have been more than 300 complaints brought to the WTO dispute settlement procedure since the creation of the WTO. Although most of complaints brought by industrialized members, more and more complaints (over 26%) were brought by developing members in the WTO era, compared with that (16%) in the GATT period.²⁵ Certainly, the dispute settlement mechanism of the WTO may not solve all trade disputes among members, but the mechanism at least provides a public and rule-based, instead

²³ The WTO website, http://www.wto.org/english/tratop_e/region_e/region_e.htm

²⁴ Article XXIII of the DSU.

²⁵ Bernard Hoekman, Aaditya Mattoo, and Philip English, *ibid.*, 76.

of power-oriented, procedure for trade dispute settlement. International trade can thus proceed in a more neutral and secure playing field and weaker members would have a better chance to defend their interests in a rule-oriented than in a power-oriented system.

Policy Implications for Taiwan

Instead of paying attention to how to expand international trade or safeguard domestic market/industries through the WTO architecture, Taiwan focused too much on its application for WTO membership in the past few years. After becoming the 144th official member of the WTO in 2002, the challenge for Taiwan today is how to expand its foreign trade under the architecture of the WTO. Based on the analysis on the WTO architecture and its impacts on international trade before this section, the paper provides following policy implications for Taiwan to improve its foreign trade in the WTO era.

Making use of WTO principles and rules to expand foreign trade

Before officially joining the WTO, most of Taiwan's trading partners offering Taiwan trade preferences or terms depended on the circumstances of international political economy and mutual relationship, instead of international agreements or rules. Especially with no official or internationally legitimate channels to negotiate, Taiwan usually could only lie down under pressures from its major trading partners like the United States, European states, and Japan. As a member of the WTO, today Taiwan should well apply WTO's underlying principle of nondiscrimination (including MFN and national treatment principles) and other related WTO rules to eliminate past discriminative treatments and barriers. For instance, last

year Taiwan asked Argentina and Poland to return to nondiscrimination principle and diminish their constraints on Taiwan's textile products.

Taking negotiation opportunities and guiding negotiations

The WTO is a member-driven and consensus-building international organization; in that way, negotiations serve as the major approach to reach its goals. On the whole, negotiations under the WTO architecture include both bilateral and multilateral forms. Official bilateral negotiations usually take place in negotiating with membership application countries. Multilateral negotiations oftentimes happen to trade rounds such as the current Doha Round negotiations. Through bilateral negotiations, Taiwan should actively request tariff reduction, market access, and non-tariff-barriers elimination from those application countries. Taiwan is now engaging with such application countries as Vietnam, Saudi Arabia, Russia, White Russia, and Ukraine in bilateral negotiations.

In the multilateral negotiations, Taiwan should on the one hand fully present its concerns, requests, or positions; on the other hand, Taiwan should catch/understand the dynamics behind the multilateral negotiations, integrate domestic needs and policies, and frame positions on specific issues as soon as possible in order to guide negotiations toward preferred directions and to ally with other members, if necessary and possible. In the current Doha Round negotiations, Taiwan has joined such alliances as friends of antidumping, Group of 10 (G-10, supporting agricultural multifunctionality), and friends of Singapore issues.

Participating in Trade Policy Review Mechanism to remove trade barriers

The pillar of the trade policy review mechanism for the WTO architecture is to reduce the uncertainty of international trade and investment, remove potential trade barriers, and increase the predictability and transparency of world trade environment. Being a WTO member, Taiwan should take part in the process of trade policy review periodically to keep informed of new trade policies and measures, which would help grasp business opportunities and remove potential trade barriers. For example, with participating in the trade policy review on Australia in September 2002, Taiwan proposed its concerns about Australia's sanitary and phytosanitary (SPS) measures taking prolonged procedures, which caused non-tariff barriers to Taiwan's export. Taiwan also made use of transitional trade policy review on China and raised policy and institutional questions in areas of antidumping, safeguard measures, finance, technical barriers, and SPS measures to China.

Settling trade disputes through the dispute settlement mechanism

In the past, because Taiwan was not a member of the GATT/WTO, trade disputes between Taiwan and its trading partners used to be settled through bilateral negotiations with no open and rule-oriented procedures. Despite being unable to solve all trade disputes effectively, the current dispute settlement mechanism of the WTO at least provide an open, transparent, and rule-oriented venue for dealing with trade disputes. Particularly as the world trade getting rule-based, it is unavoidable for trade-dependent countries like Taiwan to involve in trade disputes. Thus as a new WTO member, Taiwan should actively learn to handle trade disputes through WTO dispute settlement procedures. Currently, Taiwan has joined with the EU, Japan, Poland, and others to bring a suit against the

United States' safeguard measures on steel products through WTO dispute settlement procedures.

Launching the mechanism of safety valves to accommodate liberalization

As entering the WTO, Taiwan's economy has to face increasing foreign competition and pressures for market openness. Some sensitive sectors such as agriculture and labor-intensive manufacturing may as a result suffer severely and thereby injury people's living. Therefore, Taiwan could launch such safety valves as countervailing duties, antidumping and safeguard measures to accommodate liberalization and market openness, so as to allow weaker domestic industries to adjust to new trading environment as well as to alleviate social discontents.

Enhancing bilateral relations via multilateral settings

Owing to its political status and relationship with China, bilateral interactions and relations between Taiwan and other countries were by and large constrained to be unofficial, private, and non-political. Rule-based and member-based WTO could indeed provide Taiwan considerable channels and chances to interact with other countries and international organizations. Accordingly, besides actively engaging in WTO activities, Taiwan should use the WTO mechanism to increase and improve bilateral interactions with other members, so as to escape from its diplomatic dilemma on the basis of WTO multilateral settings. Recently, for instance, Taiwan has tried to negotiate bilateral free trade agreements (FTAs) with several members under the architecture of the WTO.

Participating in rulemaking to ensure self interests

Before becoming the member of the GATT/WTO, Taiwan was over and over again forced to accept GATT/WTO rules set by other countries. Today, Taiwan is no longer just an observer, but an official member who enjoys the right to participate in making WTO rules. In particular, as the WTO was set to be a rule-based international organization with binding and enforceable rules, it is important for Taiwan to actively participate in the rulemaking of world trade regulations to ensure its interests. More aggressively, Taiwan should try to take part in negotiation agenda setting and learn how to play a leading role in rulemaking.

Basing domestic reforms on WTO dynamics

For Taiwan is heavily dependent on foreign trade, internationalization, liberalization, and openness are indispensable and irresistible. However, if domestic laws and regulations cannot appropriately adjust to internationalization and liberalization, Taiwan may suffer before gain from foreign competition. As a result, Taiwan government should work with the private sector to comprehend the variation and movement in the WTO, and then base domestic policy and structural reforms on these WTO dynamics. It is thus hoped that WTO dynamics could be turned into the pressure and legitimacy to facilitate domestic structural reforms, privatization, and legislation.

Adjusting the cross-Straits economic relations under the WTO

Since the launch of economic interactions across the Taiwan Strait in the late 1980s, the cross-Straits economic relations have been very unique and always dancing with cross-Straits political ties. In 2002, both China and Taiwan officially joined the WTO without claiming the clause of non-application to each other. In other words, China and Taiwan have to treat

each other as a normal WTO member and implement required obligations with each other under the WTO. The WTO thus naturally becomes an alternative mechanism for China and Taiwan to deal with their economic relations. Although China so far have refused to have official dialogues or negotiations with Taiwan under the WTO architecture, Taiwan may try to adjust and normalize cross-Straits economic relations by using the WTO architecture. Moreover, Taiwan may base the management of cross-Straits trade on the architecture of the WTO. That is to apply WTO principles, rules, mechanism of safety valves, and mechanism of dispute settlement to govern cross-Straits economic interactions, or to "WTOize" economic relations across the Taiwan Strait.

Conclusion

After going through a long preparation and experiment in the GATT period, a concrete and formal mechanism for governing world trade—the WTO—was eventually established in 1995. The WTO is built on the architecture supported by six major pillars: 1) underlying principles such as nondiscrimination, single undertaking, transparency, removing trade barriers, and progressive liberalization; 2) the operation norm of reciprocity; 3) binding and enforceable rules; 4) consensus-based decisionmaking mechanism; 5) the mechanism of safety valves; and 6) the mechanism of dispute settlement. These pillars tie to each other and each one is required to build the current multilateral trading system. More importantly, the architecture has brought international trade such epochal impacts as liberalization, transparency, depoliticization, member-based world trade, rule-based world trade, alliance-based negotiations, WTO-plus effects, and institutionalized dispute settlement.

The current Doha Round negotiation and the recent Cancun meeting further demonstrate that the architecture of the WTO has indeed influenced the way, process, and consequence of the world trading system. Rule-based and member-based world trading system has encouraged and driven more and more developing countries and least-developed countries to participate Doha Round negotiations. Also, single undertaking principle and rule-oriented ideas have forced members to take negotiations serious and calculate costs and benefits carefully. Alliances become very popular in WTO talks, and a politically and economically great power can hardly dominate or control talks results. Or we can say that the WTO architecture has resulted in “real negotiations” for international trade, which are about figures and certainly about money.

As a major (top-20) trading state in the world, Taiwan cannot neglect the variation and potential trends in the world trade environment. Particularly after becoming a member of the WTO, Taiwan has to understand that its economic development cannot be situated outside the WTO architecture. Hence, in addition to carrying out its commitments and obligations, Taiwan should fully make use of the WTO mechanism, such as applying WTO principles and rules, participating negotiations and trade policy reviews, enhancing bilateral and multilateral relations, taking part in rulemaking, creating or join alliances, launching safety valves, to expand its foreign trade and maximize its interest in joining the WTO.

