



Geopolitical tensions and the resilience of the World Trade Organisation framework

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Mini dissertation accepted in partial fulfilment of the requirements for the degree *Master of Laws with Mercantile Law* at the North-West University

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Graduation: May 2026

Abstract

The World Trade Organization (WTO) dispute settlement mechanism is mostly known as the central pillar of the multilateral trading system and the WTO's most important contribution to global economic stability. It provides a rules-based, multilateral forum for resolving trade disputes between WTO member countries, preventing unilateral actions that could escalate into broader conflicts.

However, geopolitical tensions, can be referred to heightened political, strategic, and economic rivalries between major powers or blocs that spill over into trade policy. Thus in the context of the World Trade Organization (WTO) and its dispute settlement mechanism (DSM), geopolitical tensions are now front and center because they directly challenge the core promise of the multilateral trading system.

The core aim of the World Trade Organization (WTO) is to promote open, rules-based, and non-discriminatory trade among nations. Nevertheless, rising geopolitical tensions are increasingly challenging this objective, raising serious questions about the resilience of the WTO framework. In today's international trade environment, powerful countries frequently weaponize trade through unilateral tariffs, sanctions, and economic coercion, as clearly seen in the US-China trade war.

This research critically examined the impact of current geopolitical tensions on the resilience of the World Trade Organization (WTO) framework through a legal lens. Also, the study ultimately assessed how effectively the mechanism protects WTO members and upholds the rules-based multilateral trading system in an era of increasing trade weaponization.

Geopolitical tensions, rising protectionism, unilateral trade measures, and the frequent invocation of national security exceptions have severely challenged the WTO, with the paralysis of the Appellate Body largely due to US concerns over its authority significantly weakening enforcement. Despite these pressures, the WTO remains a vital platform for dialogue, negotiation, and transparency; its member-driven adaptability, through plurilateral initiatives and enduring legal principles, continues to support global trade even as multilateralism faces serious strains.

Key words: Geopolitical tensions, Dispute Settlement Mechanism (DSM) The World Trade Organization (WTO), International Trade (IT) Trade weaponization (TW)

ACKNOWLEDGEMENTS

To my Heavenly father God in the name of Jesus Christ , I myself degree and declare that Jesus Christ is my Lord and Savior. I give all glory to you Heavenly father God , and I thank you for your everlasting wisdom, grace, mercy, strength and keeping me until so far. I pray that me and my family shall serve and worship you Heavenly father God for all days of our lives.

To my family , especially my mother, I want to say thank you for being the mom you have been to me. I take this time to bless you while you still alive, gratitude with everything you did for me, the list is endless. But fervently from me, there are no words to express how much I appreciate your love and support.

To my Supervisor: none of this would be possible without you. I had never heard of WTO before I attended your class. Now here I am writing 20 000 words on the subject, with great confidence that I will pass.

Finally, this study is dedicated to the memory of my late father who had an immeasurable impact on my life, and his teachings have shaped me into the man I am today. May his souls continue to rest in heavenly peace

LIST OF ABBREVIATIONS

WTO WORLD TRADE ORGANISATION

GATT GENERAL AGREEMENT ON TARIFF AND TRADE

DSU DISPUTE SETTLEMENT UNDERSTANDING

DSB DISPUTE SETTLEMENT BODY

US-CHINA UNITED STATES OF AMERICA V CHINA IN TRADE WAR

AP APPELLATE BODY

MFN MOST-FAVOURED NATION

COVID-19 CORONAVIRUS DISEASE

WWII WORLD WAR TWO

MPIA MULTI-PARTY INTERIM APPEAL ARBITRATION ARRANGEMENT

DS543 World Trade Organization dispute case

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1. Chapter 1 Introduction and background to the study

1.1 Background

The World Trade Organization dispute (WTO) settlement mechanism is greatly affected by the current geopolitical tensions. Trade weaponisations between USA and China , also Russia and Ukraine war serve as a instance. Geopolitical tensions in the limelight of international trade can be articulated as strategic move or interference of nations to other ones using the context of trade policies especially to members of the WTO. Geopolitical tensions cause many trade imbalances, and they are done intentionionally and legally by following trade policies.¹

One of the aims of the WTO is to promote open and equal trade, but there has been many geopolitical tensions that have been challenging this aim. This leads to the question of the resilience of the WTO framework. Furthermore, we are currently in an era in international trade law where countries misuse their powers and weapons to influence trade agreements, as done in the US-China trade war. Even with the final decision taken, agreements are affected by the power and economy of the country. Open trade is no longer regulated accordingly. Geopolitics have become the main influence on trade weaponisations.²

Until recently ,the WTO has been called the crown jewel of trade, as it the only organisation that is concerned with matters related to the global rules of trade. However, WTO was formed in 1995, as the successor of the General Agreement on Tariffs and Trade (GATT) , which was drafted after WWII. The reason GATT was founded just after the World War II , was of the belief that when international trade is regulated, it will automatically escalate, to also increase raise economy. But, not only the economy even peace and stability for all especially after the war, as going to be very beneficial from the formation GATT.³

¹ Jackson The Jurisprudence of GATT and the World Trade Organization

² Marceau A history of law and lawyers in the GATT/World Trade Organization

³ Collins The World Trade Organization: A beginner's guide

GATT was formed as a legal agreement among several countries to encourage the global exchange of goods and services by minimizing or abolishing trade barriers such as tariffs. So, within GATT members, one of their requirements was to meet frequently to discuss reduction of tariffs, also it became a permanent international organisation for safeguarding the ways of global trade and increasing of members partaking in trading.⁴

Furthermore, GATT formulated principles that guided every rule it conducted, so every rule was meant to be founded in these principles, “trade had to be led in a non-discriminatory way, the use of quantitative boundaries had to be censured and disagreements had to be discussed to bring solutions by consultations”.⁵ Likewise, to promote non-discrimination members nations of GATT had to apply Most Favoured Nations clause unconditionally. This is the first clause in GATT which ensured that each member had a standing with respect to imports and exports duties with particular options.⁶

Article 1 of the Agreement, declares that nations must treat each other equally, there must be no advantage, favour, or privilege of neighbouring countries. All trade must be conducted in the same equal way. GATT was formed in 1947, with its own provisions and legal mechanisms conducted within GATT 1947. These are still relevant in the GATT 1994.⁷

The WTO was invented in 1995, as one of the new emerging global organisation. Its establishment followed serious negotiations within GATT in Uruguay, and during the round of negotiations tariffs reductions was discussed fervently. The members of the newly formed WTO negotiated all the rules and agreements that now form part of the organisation under the supervision of GATT in Uruguay. The agreements and rules have to adhere to the principles that every rule or agreement must be non-discriminatory, that every member had to be guaranteed that its exports and imports will be done fairly, and that the organisation would

⁴ Brewer and Young 1999 Journal of World Trade

⁵ Sturgeon and Gereffi 2019 Transnational Corporations

⁶ Sturgeon and Gereffi 2019 Transnational Corporations

⁷ Wu 2016 Harvard International Law Journal 115-138

expand to other member nations. Also, developing countries within WTO were given leeway to come up with suggestions for fast growth in their economies.⁸

The only main aim with the establishment of WTO was to boost international trading by promoting transparency in trading for smooth flow of movement between nations. It also provides a legal mechanism to resolve any trade dispute that may rise, to increase stability and peace throughout the world. Also, the WTO adopted several measures to use trade in raising the standard of living in developing countries, such as cooperation with other global organisations, creating a strong trade base for developing economies, reviewing national trade policies, and administering it as a forum for trade agreements.⁹

The WTO created the Dispute Settlement Understanding to resolve any trade dispute conflicts that may arise by enforcing the rules and agreements that were negotiated by the members of the organisation. Any case that governments suggest that it violated the rules of WTO must be brought forward for judgement to the Dispute Settlement Body. Also DSB had set lot of rules for Appellant members on how to take decisions and how appoint them, up until USA decide to forbid the selection of Appellate Body members.

This has caused a great harm to the WTO especially in resolving conflicts on trade dispute, since the board had inefficient Appellate Body members and it was unable to continue with its activities in the dispute settlement body as the bard members were not enough.¹⁰

Thus, this also meant any ongoing cases or new case that were brought forward in the dispute settlement body had to be prohibited with immediate effect, without knowing when the resolution will be, also appeals were not able for being reviewed. However, the rapid increase of geopolitical tensions globally continues to threaten the fundamental principles and operational framework of WTO, especially dispute settlement mechanisms.¹¹

⁸ Escaith, Lindenberg and Miroudot "International Supply Chains and Trade Elasticity in Times of Global Crisis"

⁹.Brewster 2011 George Washington Law Review

¹⁰.Footer 2001 Journal of World Trade 12-29

¹¹Bhagwati, Greenaway and Panagariya 1998 Economic Journal

Escalating geopolitical tensions are significantly challenging the resilience of the WTO's foundational principles, specifically non-discrimination, transparency, and reciprocity..Since several countries are currently increasing to trade with leniency based on being geopolitical allies or countries having some certain relationship through trading, now it abuses the principle of Most-Favoured-Nations (MFN) which was formed to guide on all issues relating to these matters. Also, research indicates that between 2017 and 2023, quarter-on-quarter trade volumes grew nearly 2.5% faster among geopolitically aligned nations, whereas trade between geopolitically distant countries saw significantly slower growth.¹²

This clearly shows that global trade is becoming unfair and favouring some nations better than others inclusive of favours and sharing same values or cultures in countries. Consequently, the national security exception under GATT Article XXI is being undermined by modern geopolitical conflicts, as nations increasingly bypass WTO legal frameworks to take unilateral action.¹³

Furthermore, taking final rulings and negotiation under WTO is also affected a lot by geopolitical tensions in agreeing on new trade rules because of the diverse membership of the WTO. As a result this has caused conflicting interests and priorities among member states. Moreover, when it comes to transparency, it is another fundamental principle of WTO, yet is being attacked a lot. The WTO consists of trade monitoring called Trade Policy Review Mechanism, which is formed to better transparency in order to improve great corporation of trade policies made by the members of WTO.¹⁴

1.2 Motivation

Initially, the central research problem examines how escalating geopolitical tensions specifically trade wars, economic sanctions, and nationalist policies have undermined the legal

¹² Brewster 2011 George Washington Law Review

¹³ De Baere "World Trade Organization"

¹⁴. Escaith, Lindenberg and Miroudot "International Supply Chains and Trade Elasticity in Times of Global Crisis"

¹⁵ Wu 2016 Harvard International Law Journal 29-48

integrity and operational effectiveness of the WTO. The analysis focuses primarily on the organization's dispute settlement mechanism and its enforcement capabilities.

The issue of geopolitics had a very negative effect on the legal basis of WTO, as it was made to promote open fair trade and non-discriminatory, and always be equal. Thus, with the aim of helping its members to boost their economies and their citizens through uplifting standard of living and creating more job opportunities. So, this rise of geopolitical tensions has caused lot of undermining or disregarding in the rules and agreements of WTO. Thus, the failure of member states to adhere to WTO consultation processes has compromised the stability and integrity of the organization's legal framework. This erosion of trust among the broader membership threatens to instill systemic uncertainty across the global trading landscape.

Geopolitical tensions has caused lot of trade imbalances, and some certain favours in the members have already begin in the trading space, where countries trading each other smoothly because of geopolitical closer or share same cultures or values.¹⁵

The 2008 global financial crisis also impacted WTO principles which caused lot of sacrifices to be made by countries, and that caused high levels of scrutiny in global supply chains.¹⁶ There are many ways that research problem have come about, primarily when USA started blocking appointment to the Appellate Body in 2019 that caused lot of issues in the WTO, as the members were not fit and sufficient to continue resolving dispute under WTO. This caused WTO legal mechanism system to be undermined since it was no longer able to resolve dispute.

Also, increased trade barriers had caused trading to be kind expensive especially with the fact tariffs are being imposed due to geopolitical tensions and that causes harm in the WTO legal principles.¹⁷

The trade tensions between the United States and China have significantly compromised the WTO's authority, manifesting in the proliferation of unilateral tariffs. Furthermore, Russia's invasion of Ukraine precipitated a surge in trade sanctions and an unprecedented invocation of national security exceptions. These developments illustrate how geopolitical interests are being prioritized to advance strategic national objectives, directly challenging the neutrality and resilience of the WTO's legal order.¹⁸

¹⁵ Gallagher Guide to the World Trade Organization and Developing Countries

¹⁶ Marceau A history of law and lawyers in the GATT/World Trade Organization

¹⁷ Marceau A history of law and lawyers in the GATT/World Trade Organization

¹⁸ Collins The World Trade Organization: A beginner's guide

This study is driven by the requirement for a comprehensive analysis of the nexus between international trade law and geopolitical dynamics, specifically regarding how these two fields influence and constrain one another. Also, these geopolitical tensions are contributing a lot the undermining of WTO legal mechanism system so this is killing the integrity and accountability of WTO dispute settlement body, resulting negative in the global economy, also leading into lot of in trade imbalances , and causing slow growth economy in developing areas.¹⁹

Geopolitical tensions are causing to the resilience of WTO and within its legal frameworks is not good. WTO was supposed to be independent and neutral but due to lot of these factors , now the ability of WTO such dispute settlement body that is used to enforce the rules of WTO is no longer considered. In the current international landscape, significant institutional damage has occurred as the primary mechanism for enforcing trade rules and resolving disputes has been rendered incapacitated. Consequently, the absence of an effective adjudicatory body has left numerous economies vulnerable to unfair trade practices and systemic instability. Also, looking at the resilience of WTO , when it can no longer do its main objectives , it will soon become useless.²⁰

The results of this problem are highly detrimental to global economic stability, since WTO has been the only organisation that is dealing with trade dispute internationally, so for WTO losing its credibility will have a very bad effect on countries in trading as WTO main objection was to promote stability and peace when trading , and to remove any trading barriers. Trust will be affected when trading without considering WTO or it being rendered not working, there could be easily great collapse of trading among nations without WTO in place, as developed countries can easily scrutinize developing countries like nobody business. It could be very hard to trade as prices could hike like anyway because of no regulations.²¹

Addressing these challenges requires a multifaceted reform of the WTO, centered on enhanced transparency and robust compliance mechanisms to ensure member accountability. A critical

¹⁹ Collins The World Trade Organization: A beginner's guide

²¹ McRae "GATT article XX and the World Trade Organization Appellate Body"

²² McRae "GATT article XX and the World Trade Organization Appellate Body"

prerequisite is the United States' cooperation in the appointment of new Appellate Body members to restore the functionality of the dispute settlement system. Furthermore, the WTO must refine its adjudicatory policies and establish clear parameters for managing geopolitical tensions within the trade regime. Ultimately, the success of these reforms depends upon the acquiescence of the United States as the world's leading economic power.²²

1.3 Problem statement

WTO is a very structural organisation, and its top-level decision-making body is the Ministerial Conference, which usually takes place every 2 years. Article XXVIII of the GATT 1994 is the one that promote assurance and unconditional invite all WTO members to negotiate the reduction of tariffs. Also, there principle of reciprocity, which is a core mechanism used by countries to achieve mutually beneficial outcomes and is often the subject of intense negotiation itself.²³

The overall objective of WTO is always to aid its members to use trade as a source to increase their standard of living, creating more job opportunities for their people , and improving their health lives. Also, a core objective of the WTO is to facilitate the economic integration and development of emerging economies. This is primarily achieved through provisions that grant developing countries longer transition periods and increased flexibility in implementing trade agreements. Thus, WTO 's rules and agreements promise to provide quality of goods to their members in any exchange of trading taking place, to make sure that consumers are always happy with stability and consistency. Thus, one of WTO's benefits is the expansion of trading taking place to each an every member state, as WTO promise that it will open international markets to be wide for every member equally.²⁴

Furthermore, for every country that joined WTO, had aim for peace and stability as WTO promise, was to provide it and to resolve any trade dispute that may arise, so countries also wanted peaceful trading to boost their economy voluntarily. In addition, when it comes to another interesting agreement in the WTO was to terminate any trading barriers through negotiations to all members state of WTO for allowing smooth trading movement. The multilateral trading system is considered as the heart, where negotiations and agreements of

²² Escaith, Lindenberg and Miroudot "International Supply Chains and Trade Elasticity in Times of Global Crisis"

²³ Pauwelyn 2019 Journal of International Economic Law 12-90

²⁴ Pauwelyn 2019 Journal of International Economic Law 45-90

WTO are signed and ratified in their parliament. The agreements and negotiations serve as the legal foundations for international trade. Functionally, WTO agreements operate as a multilateral legal framework that defines the reciprocal rights and obligations of member states. By providing a predictable environment for international commerce, these agreements aim to enhance the socio-economic welfare of the global population.²⁵

While foundational instruments such as the General Agreement on Tariffs and Trade (GATT) and the Agreement on Agriculture (AoA) have faced criticism for their perceived biases, the broader WTO framework provides a stable and transparent environment. This structure is essential for global producers and exporters, as it mitigates the risks associated with arbitrary trade barriers. Therefore, the intention of this study is to explain how geopolitical tensions have affected the legal mechanism or principle that are displayed by WTO. Also, this research will examine the question of resilience of the WTO legal framework based on the current state of geopolitics in the world.²⁶

However, this research will also expound upon particular instances where geopolitical tensions have been used as trade policies or led to trade disputes within the WTO. Also, this research will stipulate recommendation to review some of the WTO legal mechanisms if they are being followed correctly or practised by every member state equally.

1. Research question

The main research question is: *How have geopolitical tensions affected the resilience of the WTO legal framework ?*

In engaging with the above question , the following further questions are expounded upon:

- What is GATT and why it was formed ?
- What is WTO and how it came about ?
- What is dispute settlement mechanism in WTO ?
- What are geopolitical tensions ?

²⁵ World Trade Organization Understanding the World Trade Organization

²⁹. World Trade Organization Understanding the World Trade Organization

- How have geopolitical tensions affected the legal framework of WTO and its resilience?
- What are the particular instances where geopolitical instances have happened ?

2. Research aim and objectives

The aim of this research is to critically unpack the effects of geopolitical tensions on the legal framework of the WTO, also to look on the resilience of WTO, whether it is still relevant in the current era, by focusing on dispute resolution mechanism , rule enforcement and the overall study of it.

The initial objective of this research is to articulate: *how have geopolitical tensions affected the resilience of the WTO legal framework*

However, these are the **Research Objectives**:

- To examine the legal structure and foundational principles of the WTO framework,
- To expound the topic with specific case studies (for instance US-China trade war, Russia-Ukraine conflict, or national security exceptions) in order to make it clear in how geopolitical conflicts have challenged WTO legal norms and procedures.
- To check the resilience of the WTO legal framework
- To analyse the manner in which geopolitical tensions have tempered WTO members to adopt unilateral or plurilateral legal measures excluding WTO framework.

3. Research Methodology

This research is literature based, and the methodology that applies is called analytical approach, also both primary and secondary have been utilized. Likewise, legal words discussed in GATT 1947 and DSU are often utilized as primary sources. While secondary sources normally use, WTO negotiations also speeches created by WTO members, scholarly books and journal articles.

4. Framework

This study consists of six chapters as follows:

Chapter one: Introduction and background of the study

Chapter two: Articulate dispute settlement mechanism of World Trade Organisation , and its foundational principles.

Chapter three: A deep analysis in the form of case study on US-China trade war and Russia and Ukraine conflict, to exhibits how geopolitical tensions have challenged WTO legal structure.

Chapter four: The relevance and resilience of WTO.

Chapter five: The future outlooks of WTO.

Chapter six: Conclusion and Recommendations

5. Relevance for research unit

This topic goes with Finance Trade and Innovation research unit as it trying to dispute research for innovation WTO legal framework since the world is evolving to the 4th industrial revolution, so also the law needs to evolve with it. Since the primary focus of this research unit is to promote finance trade and investment, as it is influenced by amongst other, even aim of this topic is to protect WTO, since it is highly influenced by geopolitical tensions. So, if WTO is in line with current era limelight in terms of technology and advanced laws, it will continue to strive, promoting free trade to boost the economy especially of developing countries.

6. Statement regarding ethics

“Please find attach herewith the completed ethics checklist”

2. CHAPTER 2 The dispute settlement mechanism of the World Trade Organisation

2.1. This chapter provides a comprehensive analysis of the evolution of the multilateral trading system, tracing its origins from the provisional General Agreement on Tariffs and Trade (GATT) in 1947 to the formal establishment of the World Trade Organization (WTO) in 1995. It delineates the foundational principles that underpin the global trade regime, including non-discrimination, transparency, and the pursuit of trade liberalization. By examining these core values, the chapter establishes the necessary historical and legal context to evaluate how the contemporary WTO navigates the complexities of modern geopolitics and systemic instability.

2. 2 The nature of the General Agreement on Tariff and Trade and the reason for its formation

The General Agreement on Tariffs and Trade (GATT) was established as a multilateral legal instrument designed to facilitate global commerce by reducing or eliminating trade barriers, such as tariffs and quotas. Signed on October 30, 1947, by 23 founding nations, the GATT was not initially conceived as a formal international organization. Rather, its provisional nature was a strategic compromise following the political failure of the International Trade Organization (ITO). The ITO, intended as the third pillar of the Bretton Woods system alongside the IMF and World Bank, was ultimately abandoned due to opposition within the United States, where protectionist sentiment rendered the Havana Charter politically untenable.²⁷

However, on 1 January 1948, GATT started its operations, though it was just invented for a short period to govern international trade, until a more precise global organisation could be created.²⁸

Nevertheless, GATT was formed just after the World War Two to eliminate negative trade policies such as the tariffs and quotas that had destroyed global trade at that time of the global conflicts in 1930s and the era of Great Depression. Thus, the establishment of the GATT was an essential response to the economic devastation of the post-war era. Given the collapse of international commerce during the preceding decades, the creation of a multilateral framework became an institutional imperative to restore stability and prevent the recurrence of protectionist trade wars. GATT aided a lot in that aspect of trading as it promoted free trading,

²⁷ World Trade Organization Understanding the World Trade Organization

²⁸ Jackson The Jurisprudence of GATT and the World Trade Organization

predictable and non-discrimination trading of goods and services was required as many countries suffered a lot during World War II.²⁹

While the GATT is credited with facilitating post-war economic recovery and fostering a period of relative stability, its long-term efficacy is increasingly scrutinized in contemporary scholarship. Historically, the GATT aimed to avert future trade wars by liberalizing global commerce and establishing a rules-based order; however, critics now argue that its framework often prioritized the interests of industrialized nations over the sustainable development of the Global South.³⁰

Originally, GATT was designed only as a provisional agreement to govern international trade on a temporary basis until the more ambitious and comprehensive International Trade Organization (ITO) could be established. The ITO's charter, however, failed to gain ratification primarily because of resistance from the U.S. Congress leaving GATT to function as the primary multilateral trade framework for almost half a century. Over its 47-year run, GATT organised eight negotiation rounds that dramatically lowered global tariffs from approximately 40% in 1947 to below 5% by the 1990s. This success fuelled rapid expansion in international commerce, with trade volume increasing at a rate of 8% throughout the 1950s and 1960s.³¹

2.3 The nature of the World Trade Organisation and the reason why it was formed

The WTO is the only international agreement that focuses on the rules of trade among different countries. The WTO's main mission is to facilitate trade flows that are as smooth, predictable, and free as possible through both oversight and the liberalization of international commerce. Thus, WTO acts as a platform for three main activities; negotiating trade pacts, settling conflicts over trade, and assisting developing countries with trade issues. Also, the WTO currently has 166 member nations as of its establishment period, representing over 98% of world trade.³²

While the GATT was established in 1947 as a provisional multilateral agreement among 23 signatories, it evolved over nearly five decades into the World Trade Organization (WTO). Formally entering into force on January 1, 1995, the WTO absorbed the original GATT framework now referred to as GATT 1994 while expanding its jurisdiction to include services,

²⁹ Jackson The Jurisprudence of GATT and the World Trade Organization

³⁰ Wu 2016 Harvard International Law Journal 45-78

³¹ Ademoglu 2016 Journal of Labor Economics 18-45

³² Marceau A history of law and lawyers in the GATT/World Trade Organization

intellectual property, and a more robust, binding dispute settlement mechanism. The Uruguay Round, involving 123 countries, drastically expanded the focus of global trade talks to cover services and intellectual property. This effort culminated in the Marrakesh Agreement in April 1994, which formally replaced the restricted GATT framework with the WTO.³³

2.4 Dispute settlement mechanism of World Trade Organisation

The Dispute Settlement Mechanism (DSM) operates under the Dispute Settlement Understanding (DSU) and is the foundational pillar of the WTO. Also, it provides a robust and binding mechanism to enforce multilateral trade rules and settle disputes among member states. It provides a structured, rules-based process to address claims of WTO violations, with the goal of ensuring compliance and promoting stability in the global trading system. The system, which is overseen by the Dispute Settlement Body (DSB) and composed of all WTO members, uniquely prioritises consensus-building, predictability, and the prevention of unilateral actions.³⁴

2.5 Main foundational principles of DSM

The DSM is built on core principles enshrined largely in Article 3 of the DSU that ensure fairness, efficiency, and the rule of law in international trade. However, the key to the core principles of the DSM is to establish security and predictability by basing decisions on WTO agreements (rules-based approach), not power, promoting prompt and positive settlement through negotiation while strictly discouraging unilateral actions. The process ensures equity and legitimacy through transparency, independence, and special considerations for developing nations, and it upholds WTO tenets like non-discrimination, applying principles of customary international law to make it a more impartial and enforceable system than its GATT predecessor.³⁵

³³ Ademoglu 2016 Journal of Labor Economics 22-45

³⁴ Marceau A history of law and lawyers in the GATT/World Trade Organization

³⁵ Itakura 2019 Asian Economic Policy Review

2.6 Conclusion

The GATT was a provisional agreement that successfully lowered trade barriers for goods but lacked institutional strength. While WTO was established to formalize and expand this system, bringing in rules for services and intellectual property. Thus, WTO's binding and automatic dispute settlement mechanism is a highly effective judicial system that transformed international economic relations from a diplomatic process into a true legal framework, prioritizing predictability and fairness. However, this statement will lead into the case study of how geopolitical tensions affected WTO dispute settlement mechanism and challenged WTO's legal structure.³⁶

³⁶ Itakura 2019 Asian Economic Policy Review

CHAPTER 3 A case study of geopolitical tension

3.1 This chapter will be articulating and expounding a deep analysis in the form of case study on US-China trade war and Russia and Ukraine conflict, to exhibit how geopolitical tensions have challenged WTO's legal structure.

3.2 Geopolitical tensions describe the conflicts, rivalries, or strains between global actors that stem from a combination of their geographical positions, political interests, economic dependencies, and strategic ambitions. These tensions are where geography (such as control over resources or strategic locations) influences politics and power dynamics, manifesting as diplomatic disputes, economic sanctions, military posturing, or conflicts that significantly impact global stability, trade, and international relations by creating risks of broader economic or social disruptions.³⁷

3.3 The US-China trade war

Initially China has the second biggest economy in the world after USA, which makes it powerful enough to stand upon any nation that misuses power. The WTO fundamental cores were to make sure that adjudicatory system is active and working always to resolve or negotiate any trade disputes in prevention of any trade war. Thus, WTO's duty was to always ensure that no discrimination that is taking place among member nation when it comes to the execution of trading agreements.³⁸

The WTO was meant to serve like a base where member nation could go and consult whenever there is trading agenda among them in any way to promote peace and stability as an international organisation³⁹. However, USA has the biggest economy in the world, so a practical example of WTO was to make sure that even if USA, has the biggest economy among any member nation. But according to the rules WTO, USA was to be equal and to be the same as other member nation, as this organisation promotes peace with no discrimination.⁴⁰

³⁷ Footer 2001 Journal of World Trade Organisation 78

³⁸ Ademoglu 2016 Journal of Labor Economics 34-78

³⁹ Itakura 2019 Asian Economic Policy Review

⁴⁰ Gallagher Guide to the World Trade Organization and Developing Countries

Likewise, the US-China trade war erupted in 2018 under the Donald Trump administration, when the president initiated steep tariffs on imports of solar panels, aluminium, and steel originating from China. The reasons for Donald Trump and his administration are that they wanted protect USA industries and jobs, since China has the biggest cheap labour population. As a result, many industries were moving to China even though they were still selling a lot in USA and Europe.⁴¹

Also, another reason on high tariffs to China is because he came to conclusion by section 301 of their investigation that China was found practicing unfair measures, like discriminatory licensing and intellectual property theft.⁴² In simple words Donald Trump and his administration were threatened by how China's economy and industrial department was thriving very rapidly, as China is the largest exporter of goods international invented by the cheapest labour.⁴³

So, when Trump was imposing these tariffs, his aim is that he wanted to bring back the industries that moved to China for their plantations, since there they contribute to China's economy, like paying taxes, employing mostly Chinese people. This boosted the economy of China.⁴⁴ Nevertheless, when Donald Trump and his administration was issuing these tariffs, they chose to rely on section 232 of 1962 Trade Expansion Act, to allows the president of USA, with the permission of the US Secretary of Commerce, to issue tariffs from the imported goods coming in China, since they discovered that China is practising illegal measures according to their investigation.⁴⁵

The US-China trade war started when Donald Trump imposed high tariffs on some few various Chinese products. Thus, more and more investigation was held and eventually USA Trade Representative (USTR) find that some few measures done by the Chinese Government on intellectual property and investment damaged the interest of the US.⁴⁶

On 22 March 2018, USA government issued tariffs worth approximately \$55 billion on Chinese products. However, on 2 April 2018, the Chinese government retaliated by also issuing

⁴¹ Gallagher Guide to the World Trade Organization and Developing Countries

⁴² Basdekis 2022 Energies 09

⁴³ Basdekis 2022 Energies 11

⁴⁴ Davies The politics of trade in the era of hyperglobalisation

⁴⁵ Bilgin 2007 Energy Policy 15

⁴⁶ Bilgin 2007 Energy Policy 25

tariffs in between 120 to 130 US product, after China returned back with its tariffs, Donald Trump and his administration threatened to come back with tariffs twice the number on their initial number.⁴⁷

China has been the one of the most rapidly developing countries specifically with respect to communications technology, and that has not sit well with USA as they want to be the only superpower nation when it comes to dominance worldwide. As a result, that is one of the causes that led to the beginning of the US-China trade war, since one of the complains of the USA for imposing tariffs on China was disputing the fact that China's trade practices were not fair, and the economy of USA was collapsing with a great impact.⁴⁸

So, since China was thriving a lot, USA saw the only way to prohibit China's economy that was to do something to prevent their economy or to damage Chinese economy, but most importantly USA did not want to lose its status as being the most powerful nation worldwide. This is how they are the only country who issues lot of sanctions and tariffs to any nation, because they are ruling with monopoly. So, after China saw that USA issued tariffs without following the correct measures of WTO, they decided to retaliate in order to save their economy also, and that is where the resilience of WTO, has been challenged a lot by the geopolitics of this world.⁴⁹

In additions, USA wanted China to modify its trade and intellectual property policies, and the only way they can enforce China to changes their ways of trading and intellectual property policies, USA had to put pressure by imposing tariffs. Thus, USA was suffering from security concerns of losing their standard too much, if China was to continue thrive like that economically and technologically, so the only measure of imposing tariffs was the only thing they can do to limit investment in Chinese technology firms and exports control.⁵⁰

However, China on other side did not just watch USA misusing their powers on them, it retaliated by imposing such tariffs on USA goods, also limited its focus on the US market by promoting more of their local made industries and goods. Thus, China started to look for other nations to trade with, such as China strengthens its relations with other countries to trade with,

⁴⁷ Dubey An unequal treaty: World trading order after GATT

⁴⁸ Davies The politics of trade in the era of hyperglobalisation

⁴⁹ Davies The politics of trade in the era of hyperglobalisation

⁵⁰ Dubey An unequal treaty: World trading order after GATT

to limit the tariffs from US and to make sure nothing stands on their plan to grow economy and their technological advances.⁵¹

In terms of USA, their economy is mostly contributed a lot by the consumer-oriented market and dominated by the service sector. While China's economy has been created a lot by increased productivity, manufacturing and export-led growth. Chinese have also invented immense production of infrastructure development to sustain their standard as being the best country in terms of global manufacturing and this is one of the reasons why USA started the trade war, as it saw that China was thriving a lot in the manufacturing industry.⁵²

China attracted lot industries from USA, as they were the best country in terms of infrastructure development, and that resulted to a huge difference which specifically affected the structure of bilateral trade between the two superpower states, also cause a very great US trade deficit with China. Thus, the continuation of this US trade deficit was going to harm their economy big time, like increasing of the fiscal deficit, influencing the domestic industrial production, lot of risks arising in the US economy, unemployment rate going up rapidly, also affecting the rate of international debt which was also growing, and USA was going to lose its status as being the most powerful state if they did not do something about the situation.⁵³

Chinese economic policies were not challengeable when it comes to fair competition, because of very cheap labour, and their technical skills and expertise in engineering fields. This is where USA decides to take decision to attempt to force China to pervert their economic policies and practices through trade wars. As China economy is growing so fast and they are to ahead when it comes to technology, so USA became worried about China's thriving competitiveness when it comes to the international economy.⁵⁴

Chinese government saw that WTO did not assist them, and they choose to elevate their investment in science, technology innovation and the fourth industrial revolution to limit their dependence in USA, even though that resulted to lot of impact in Chinese economy, but they clearly had no better option than to do it. Also, USA did not really benefited a lot from the US-China trade war as they had to assess their ways in the dependence of global supply's chains, had to reduce their reliance in Chinese made resources, and that will harm their economy a lot

⁵¹ Rolland Development at the World Trade Organization

⁵² Gao 2021 Journal of International Economic Law 134- 156

⁵³ Gao 2021 Journal of International Economic Law 144- 156

⁵⁴ Rolland Development at the World Trade Organization

as China was creating all the production with cheap labour and skill, while in USA everything is quite expensive, and they still lack some few skills in the manufacturing industry.⁵⁵

USA most reach target is that they know how to market themselves, put high standard quality to something that has been made in China with cheap product, US actually is very good at selling the value name of whatever branding they are promoting at that particular period. While China is very good in creating lot of production with very cheap start up while going to made lot of returns.

3.4 Effects of US-China trade war on the resilience of WTO

The US-China trade war did not only affect these two countries, but it also affected lot of other countries mostly those who had close ties with China and USA, and member nation of WTO started to lose trust in its ability to avert trade war. Thus, this war has caused lot of shifts in the markets, shaking the economy of many countries, affecting exports and investment flows to many countries. However, on the other side, some many countries were alerted on seeking their way out of WTO, and many international organisations, like the rise of BRICS started to thrive vigorously, and it had few similar goals like WTO, to trade in peace with new currency and do not dependent on the currency of one nation. More often this trade war has made lot of member nations of WTO, or countries in general to see that when two super powerful states are on war it is not easy for international organisation to settle peace or resolve such disputes, as countries like China and USA are still the in the top best 5 countries in any organisation, they are in.⁵⁶

So, this trade war has been like an eye opener for many countries that it does not matter what international organisation, you are found upon, what speaks mostly in international disputes is the economy of the country and its power in terms of militaries. Likewise, to examine carefully how these geopolitical tensions rise, is always mainly revolving through the economic side, as it is clear now that to become a superpower country throughout the world, that country must be the most powerful country in terms of the economy.⁵⁷

Thus, that country must make sure that it does not allow any country to rise another economy that could bring competitiveness or shake their power when it comes to ruling or misusing their power in the world without fear of any. Most of geopolitical tensions are always involving

⁵⁵ Gulati and Kelley Trade liberalization and Indian agriculture

⁵⁶ Basdekis 2022 Energies 15

⁵⁷ Gulati and Kelley Trade liberalization and Indian agriculture

something that will grow economy, or forbidding that opportunity to any specific country, the opportunity to thrive their economy.⁵⁸

This US-China trade war has impacted not only the two super powers countries, but almost the whole world, and it has shown how the principle of MFN is not reliable at all, when it comes to other nations, and this war has showed who can stand with USA and who cannot in terms of countries having the power to retaliate over USA.⁵⁹

This is why the resilience of WTO worldwide especially to the member nation of it, is slowly beginning to lose its credibility, most nations especially member nations to the WTO, they saw that it cannot be trusted 100%. One of them aim of this trade war between USA and China, is that USA wanted to rebalance international trade relations and to protect its economic interest. Thus, this trade war exhibited the global uncertainty of the economy due to only two strongest countries fighting against each other financially, for instance not any countries that can have trade war and the whole world will be shacking about what is going to happen in the economy or countries being affected by the decision of two superpower countries.⁶⁰

3.5 Impact of the US-China trade war on the WTO legal structure

The Trump administration intentionally ignored the WTO's established dispute settlement process, as they had to file a complaint first to follow the procedure of WTO, and seek WTO authorization for countermeasures. However, looking at the core WTO legal principles, US-China trade war has totally undermined WTO dispute settlement mechanism. Primarily, when it comes to the Most-Favoured-Nation principle which is the main principle that promotes non-discrimination in international trade, and it stipulates that if one member issues a new rule or change in its trade, it must apply to all members of WTO equal. Even though USA said China has broken some of their rules, but still since both members are part of WTO, USA should have imposed those tariffs to everyone who is the member of WTO equally not to China only.⁶¹

The WTO's dispute settlement mechanism plays a very viral role in the organisation as it resolves any trade disputes that arises when two member nations or more believed on member has violated the procedure of WTO. There is a procedure that must be followed when it comes

⁵⁸ Palmeter and Mavroidis Dispute settlement in the World Trade Organization

⁵⁹ Marceau A history of law and lawyers in the GATT/World Trade Organization

⁶⁰ Marceau A history of law and lawyers in the GATT/World Trade Organization

⁶¹ Palmeter and Mavroidis Dispute settlement in the World Trade Organization

to DSM, countries must consult first, so agreements for meeting maybe discussed for solutions. Likewise, here both USA and China undermined DSM because even though USA started with tariffs China should have gone to the DSM before it could retaliate with its own tariffs.⁶²

Furthermore, member nations before they could take any decision, they can also appeal the panel decision to the Appellate Body, which is where final decisions are taken. The above procedure was unconditional to any member nations of WTO, and if a country fails to do this, the one that followed the rules of WTO is allowed to impose sanctions justified by the WTO. This procedure is invented to promote fair trade and to force with no options in WTO agreements. Both USA and China decided to take law in their own hands by fighting each other like there is no WTO at all, because China's response after USA has imposed tariffs was very imminent and independent of any WTO authorization.⁶³

Also, USA did not approach WTO authorization before it decided to impose tariffs in China. This has resulted to WTO as a whole to be weakened when it comes to trust and integrity in it. The US-China trade war has shown how geopolitical tensions have challenged WTO legal structure, as WTO has all the power to take decisions but it had no power in this war to forbid it, or try to prevent it, and that led to other member nation also to see that WTO power is not really that much strong.⁶⁴

Anyway, when it comes to the challenges of WTO rules, China did official challenged the rules of WTO, imposing a resolution called DS543 after USA imposed its section 301 of tariffs. DS543 basically directed the WTO dispute case; this is the case where China decided to take the matter to the authority of WTO dispute settlement mechanism disputing that USA violated the rules of WTO by imposing tariffs on their goods without following the correct procedure.⁶⁵

China argued that USA violated the principle of National Treatment, where goods must be treated the same as local after being imported, China disputed that the tariffs were only specifically to their goods with no proper justification in WTO principles. Also, China declared that the tariffs were not consistent with the main provisions of GATT especially Article I on MFN principle and Article II the majoring of tariffs. Likewise, WTO dispute settlement

⁶² Finger and Reincke, The Uruguay Round: statistics on tariff concessions given and received

⁶³ Finger and Reincke, The Uruguay Round: statistics on tariff concessions given and received

⁶⁴ Fang and Shao 2022 Finance Research Letters

⁶⁵ Fang and Shao 2022 Finance Research Letters

mechanism reported to the panel that China was disputing truth and was awarded with victory that USA tariffs were not consistent with its conditions under GATT 1994.⁶⁶

Thus, WTO dispute settlement mechanism instructed the panel to commend USA to alter its tariffs to be in line with WTO rules. This case of DS543 exhibits how WTO had to make decisions regarding the complex situation between USA and China to demonstrate its international standard considering these types of cases. Since a formal legally sound judgement had to be made after China issued the case, and WTO was obliged to intervene in the matter of US-China trade war for institutional competence.⁶⁷

However, that did not make USA to be comply to the WTO rules, because it also appealed the panel's decision intentionally, as it was the beginning of the crisis in the Appellate Body of WTO. As a result of the tragedy, the appeal that was made by USA automatically went into void, simply illustrate that report could not be engaged with, rulings that were supposed to be held were not, and it resulted in a legal limbo. As a matter of fact, since there was a delay in appeal and no decision was held upon it, that meant, that caused ignorance in the legal victory of China, and USA meant it was obligated to be obedient to the previous ruling.⁶⁸

So, this is a clean sample of WTO resilience being affected by geopolitics because here China did approach WTO dispute settlement mechanism to resolve their issue, and it ruled in favour of them following the procedure. But that did not mean anything to USA because they never followed the ruling of WTO in their case, and this shows the incompetence and WTO not being resilient anymore. WTO is only reliable if the losing party or a country with a very low GDP going against the big five countries in the WTO board members chooses to comply with it.⁶⁹

Likewise, when geopolitical tensions are high, a dominant nation can exploit institutional loopholes to obstruct a final, binding decision, undermining the entire legal process. For instance, initially USA has intentionally obliterated WTO Appellate Body by blocking the appointment and re-appointment of judges to the Appellate Body in 2017, and this resulted in malfunctioning of the DSM as there were few judges after. Thus, by 2019 the number of

⁶⁶ Jackson The Jurisprudence of GATT and the World Trade Organization 108-119

⁶⁷ Rolland Development at the World Trade Organization

⁶⁸ Dubey An unequal treaty: World trading order after GATT

⁶⁹ De Baere "World Trade Organization"

judges decreased extensively to reach below the quorum of three, which meant that Appellate Body was not going to be able to listen and hear new appeals.⁷⁰

In simple terms when USA was appealing the decisions that was held by WTO dispute settlement mechanism in favour of China, it knew that appeals was not going to be easy as the Appellate Body was already in a crisis of collapse. Also, there was no options in the Appellate Body as appointments of judges demands the consensus of all WTO members states, otherwise if one member nation not is objecting to give its consensus, which can cause delay or to stop the process from moving forward.⁷¹

In addition, USA intentionally blocked the appointment of judges to render WTO prominence and importance in taking pivotal decision for international disputes. USA wanted to misuse its powers well, when a strong international organisation like WTO is no longer relevant or able to take matters of appeal due to the number of judges being less than quorum. So, it is a long thing that USA had the idea to block the appointment of judges, as even Donald Trump began his first prominent in January 2017. Hence even in 2016, before Trump presidency, President Obama and Administration took a stronger stance by opposing the re-appointment of South Korean Appellate Body Member Seung Wha Chang, claiming he overstepped his authority and that his performance did not align with the Dispute Settlement Understanding's expectations for the Appellate Body.⁷²

Moreover, Donald Trump and his administration continued to what President Obama had done also to his term to block appointment of new members and that lead to slowly by surely emptying the Appellate Body of WTO until 2019 where the number of judges left were less than quorum to render WTO functionality null. So, one of the reasons USA was blocking the appointment of new members was that it expressed widespread frustration with the WTO's ineffectiveness in tackling perceived unfair trade practices by nations like China. So, this is a clean proof that USA has been threatened by the growth of Chinese economy. Especially that

⁷⁰ Gallagher Guide to the World Trade Organization and Developing Countries

⁷¹ Fang and Shao 2022 Finance Research Letters

⁷² Yeats "The escalation of trade barriers"

USA has been like a monopoly for many years when it comes to the thriving economy of countries.⁷³

Since China has been rapidly growing USA did not like that, and it had to find way to prevent it or delay their development in infrastructure departments since USA used to be the only major house in infrastructure development. China's gross domestic product of the country even optimistically when it comes to their economy, they were sitting in good growth predictions. Also, USA complained that the reason for blocking new appointment of new members was because certain USA government officials have perceived the Appellate Body's decisions as encroaching on US sovereignty, especially in cases related to US trade remedy laws, such as those addressing anti-dumping and countervailing duties. This is another clean reason where USA saw that few countries were thriving economically through trading especially China, so USA started having new problems with WTO laws when it comes to trading rulings.⁷⁴

The world was also gaining equal peace and trading disputes were resolved fairly, there was a very good balance in terms of WTO governing the world trade issues, while USA was being defeated in several prominent cases regarding these matters. So, USA was not happy at all with the above statement as the world was controlled by an international organisation rather than powers of USA being dominant, and they taught of their dominant standard of power, USA was slowly losing it. All of these issues lead to growing frustration of USA over time and one of their strategies was to advocate for sweeping reforms across the entire WTO.⁷⁵

USA blockage of appointment of new members has done great harm to the WTO but it all started from geopolitical issues of two super power countries, and the Appellate Body's dysfunction has created a significant procedural issue called de facto veto. In this matter of geopolitical issues rendering WTO irrelevant and affecting its resilience Veto would USA unilaterally stopping an official action of WTO by blocking appointment of new members. According to WTO rules, a panel report is automatically binding unless all members unanimously reject it. However, a losing party can appeal the report to the non-operational Appellate Body, stalling its adoption and enforcement until the appeal is resolved.⁷⁶

⁷³ Escaith, Lindenberg and Miroudot "International Supply Chains and Trade Elasticity in Times of Global Crisis"

⁷⁴ Pauwelyn 2019 Journal of International Economic Law 83

⁷⁵ Bhagwati, Greenaway and Panagariya 1998 Economic Journal 66

⁷⁶ Wu 2016 Harvard International Law Journal 126

Also, one of the issues that caused WTO resilience to be affected mostly, is that USA knew that decision held in conflicts disputes reported to the WTO dispute settlement mechanism cannot be enforced since the other will just appeal immediately, and since the board of judges not sufficient to held appeals, decision taken by WTO institution cannot be enforced. Thus, by appealing into a state that will automatically became void for instance in this matter US-China Section 301 dispute (DS543), the losing party effectively prevents the panel's findings and recommendations from taking effect, leaving the dispute unresolved and maintaining the challenged trade measures. After this scenario where China had won the legal victory between the US-China trade war, but still USA appeal immediately so the legal consequences will not be enforced to them, many nation members of WTO lose their interest there to bring disputes to it as that was going to be the solution to every losing state.⁷⁷

Also, that is where WTO lost its creditability and integrity when it comes to member nations bringing disputes to it, and that caused more and more nations to take trade disputes to their own hands, like in the issue of Russia and Ukraine war. Likewise, in this matter of WTO being unable to continue with appeals, the issue is that the tactical exploitation of the appeal process undermines the Dispute Settlement Mechanism's purpose, transforming it from a system of legal enforcement into a means of procedural obstruction. It highlights that the WTO's rules depend heavily on the political willingness of its most influential members to comply. This is also a very clean picture that geopolitical tensions have rendered WTO irrelevant and affected its resilience especially in solving trading disputes fairly, continue maintaining peace and balance in the international trade, and minimizing non-discrimination of trading between member nations.⁷⁸

The US-China trade war marked a significant move away from multilateral frameworks toward bilateral, power-driven diplomacy. The Phase One trade agreement, signed in January 2020, exemplified this shift. Instead of relying on the World Trade Organization (WTO) to address their disputes, the U.S. and China negotiated a bilateral deal that incorporated its own distinct mechanism for resolving conflicts. So, this also made WTO to lose its credibility when

⁷⁷ Itakura 2019 Asian Economic Policy Review

⁷⁸ Pauwelyn 2019 Journal of International Economic Law 142

countries started to reach their bilateral terms while there is international organisation that is supposed to handle those matters.⁷⁹

USA intentionally wanted those negotiations of bilateral deals because it knows that bilateral deals differ according to which countries are communicating, and in most cases countries with high gross domestic product (developed countries) always negotiate better versus the developing countries. Likewise, when the two superpower countries were negotiating it also meant not any country that can alter anything to their bilateral agreement, and that limited freedom of expression and violated MFN principle. As any member nation in WTO must make decisions that will apply to all other member nations equally, and this shift of USA and China bilateral agreement further marginalized the WTO, highlighting that the world's two largest economies, the U.S. and China, were willing and able to negotiate independently, bypassing the multilateral system.⁸⁰

The fact that two superpowers were able to negotiate without the WTO stepping in, sends a message about the role of the WTO. In simple terms this shows that WTO is only there by name but when it comes to countries following it, it will not be easy as USA and China were the first to create their bilateral agreement outside of WTO. WTO standard of being the major international organisation when it comes to promoting peace and resolving trade disputes has slowly come to end, as it is just there by name. Also, many member nations lost their trust fully when these two super giant states were taking their own decisions outside of WTO.⁸¹

Although the approach stands in stark contrast to the USA resolution of its Section 232 dispute with the European Union, which resulted in a negotiated agreement, the suspension of WTO litigation, and the adoption of a tariff-rate quota system. The contrasting approaches underscore a critical distinction, that USA was willing to find compliant resolution with its allies, while choosing a distinct, power-driven mechanism for negotiations with its main geopolitical competitor, China. This clearly shows that USA looks China as country that can give them serious problems, that is why it acted so fast to prevent China's economic growth and slow infrastructure development.⁸²

⁷⁹ WTO Secretariat A Handbook on the WTO Dispute Settlement System 2 ed (2017)

⁸⁰ WTO Secretariat A Handbook on the WTO Dispute Settlement System 2 ed (2017)

⁸¹ Wu 2016 Harvard International Law Journal 49

⁸² Marceau A history of law and lawyers in the GATT/World Trade Organization

Thus, that why USA did not want to WTO to enforce its decision because it was in favour of the Chinese, meaning it would boost their economy more. The US-China trade war has hastened a global shift from a rules-based trading system to one driven by power dynamics. Simple because when these two superpowers were having this conflict, there was no country that intervene to aid with any solutions, even when they were doing bilateral agreement no member nations criticize the two superpower countries. The dispute showed that major powers can wage disruptive trade conflicts without concern for definitive WTO rulings. This has fostered an unstable legal landscape for businesses and prompted other countries to explore unilateral measures. Since it was possible for USA and China to have their own bilateral agreement beneficial according to both countries, according to their own terms, so other member nations saw it good too to seek their unilateral ways to resolve or benefit their trading journey.⁸³

Furthermore, the intentional weakening of the Appellate Body and the assertive invocation of the Article XXI exception indicate a calculated move by a major power to favour national interests and sovereignty over the limitations of a multilateral legal system. This undermining of institutional credibility and authority jeopardizes the predictability and stability essential for businesses engaged in global trade. This also shows that in the space of global trade it does not matter which international organisation a member nation joins, what matters is the economic power the country had in order to make sound decision or not to be challenged easily.⁸⁴

Even though China and USA ended up forming bilateral agreement, but it also resulted to lot of disadvantages especially the economy of the whole world. Even the tariffs that were imposed to China by USA during the US-China trade war adversely affected consumers and producers in both nations, resulting in elevated prices for goods and disrupted supply chains. This caused lot of imbalances in the economy of the world with just two countries conflicting each other, that is why it was so difficult for WTO to resolve the matter that shackled the whole world financially. Thus, in terms of USA this war had caused a catastrophe when it comes to their local economy as studies demonstrates that USA consumers bore the brunt of tariff costs, contributing to inflation.⁸⁵

⁸³ Marceau A history of law and lawyers in the GATT/World Trade Organization

⁸⁴ Gulati and Kelley Trade liberalization and Indian agriculture

⁸⁵ Lee YS Reclaiming development in the world trading system

Additionally, the conflict triggered notable trade diversion, with companies redirecting their sourcing from China to other countries to circumvent the tariffs. So, even China economy was hurt so badly because many companies were there for cheap labour but with lot of expertise, so when USA imposed tariffs on China many companies flew away because of paying high tax. This prompted a significant reconfiguration of global supply chains, a trend that persists under the concept of de-risking. The enduring effect is a more fragmented global economy, where trade is increasingly shaped by geopolitical alignments rather than economic efficiency. Likewise, here all the trading member nations were affected by only two major house countries, while there is WTO to prevent the situation, but it also failed because it is funded by the big major countries in terms of the economy of the whole world.⁸⁶

Ultimately, US-China trade war provides a compelling case study that reveals the significant fragility of the WTO's legal framework amid heightened geopolitical tensions. The legal structure of WTO has been greatly affected by geopolitical tensions fervently, and these geopolitical tensions have a major part of WTO which is dispute settlement body irrelevant as it can no longer continue with appeals. The dispute highlighted a core mismatch between the WTO's institutional capabilities and the political resolve of its most influential members. By employing unilateral measures and exploiting institutional loopholes, the United States and China intentionally bypassed the system intended to govern their actions.⁸⁷

This renders WTO legal structure no longer relevant, when two member nations that are part to this international organisation go outside to form their bilateral agreement that is going to affect each an every country that is trading in the global space. Another major part is economic side, this case of USA and China trade war totally exhibited that decision made by rich developed countries are not easily challenged or intervened. So, WTO was proven that where two largest economies are fighting each other even it as a major international recognised organisation, but still, it could not do anything to prohibits these countries.

3.6 Case study on Russia and Ukraine conflict

Initially the case study of Russia-Ukraine conflict war demonstrates another important geopolitical tension that affected WTO legal structure, especially dispute settlement , law enforcement and exception clauses. Since both countries' member nations in WTO, so they

⁸⁶ Lee YS Reclaiming development in the world trading system

⁸⁷ Fang and Shao 2022 Finance Research Letters

were also bound to be obedient to the rules of WTO. However, Russia-Ukraine conflict war started in 2014 February, where Russian forces, initially operating without visible insignia, invaded and seized control of Ukraine's Crimean Peninsula, a strategically significant region with a substantial Russian-speaking population. Russia then officially annexed the peninsula after a highly controversial referendum.⁸⁸

Furthermore, reasons behind Russian forces invading and taking control of Ukraine's Crimean Peninsula are highly found in history, conflicting global national interest and geopolitics. Also, Russia, under President Vladimir Putin, has offered various rationales for its actions, which Ukraine and much of the international community widely contest. Primarily, Russian and Ukraine are very close, they share a very pivotal border, almost 2,295 kilometres long, making these two countries very imminent to each other, easily referred as neighbours in Eastern Europe. Russia and Ukraine have historically shared a lot in cultural, economic, and political interaction. But things changed in 2014 when their relationship turned to be a source of tension, especially since the escalation of conflict in 2014.⁸⁹

Historically, the Ukraine sided with Russia in international conflicts, mainly because of shared history and close proximity. But as time goes on, which is after the collapse of Soviet Union in 1991 Ukraine intentionally started to change sides, to be closer with the west nations, like their entrance in European Union and North Atlantic Treaty Organisation(NATO). So, this was like a betrayal to Russia, since Ukraine was welcoming their enemies in front of them, making it easy for west countries to attack them or to track their movements through Ukraine. Russia always view west as a threat to them, so seeing NATO increasing because of eastwards countries, that automatically weakens Russia and the few countries of the east.⁹⁰

Also, the Russian administration, under President Putin, viewed Ukraine's pivot toward Western political and economic spheres specifically its aspirations for NATO and EU membership as a fundamental threat to Russian strategic interests. This perceived geopolitical realignment was a primary catalyst for the subsequent conflict, which has significantly strained the WTO's ability to maintain a neutral global trade environment. Another reason is that Russians and their authority are of the view that Ukrainians and them are one people of different places. So, Russia is very concerned about who enters in the Ukraine borders since these two

⁸⁸ Pauwelyn 2019 Journal of International Economic Law 69

⁸⁹ Zhannikov 2019 <https://www.reuters.com/article/us-russia-oil-belarus-factbox/idUSKBN1YZ0XW>

⁹⁰ Zhannikov 2019 <https://www.reuters.com/article/us-russia-oil-belarus-factbox/idUSKBN1YZ0XW>

countries have a history that is connected to each other. The notion of a "Russian world" refers to a sphere of influence encompassing former Soviet states, where Russia seeks to maintain cultural, political, and economic dominance.⁹¹

Likewise, Russia biggest threat is USA which is combination of 50 states not independent countries. These states are political entities that together form a federal union under one national government. So, when Russia also wanted to have this type of strong alliance even if its two different government but must on the east side especially as neighbours. Thus, Ukraine serves as a vital corridor for Russian natural gas exports to Europe and possesses substantial natural resources and fertile agricultural land. So, allowing the interference of the west to enter Ukraine for Russia it would result to negative repercussion for their security even economically, since Ukraine is like a cornerstone for Russians economic gross domestic product when it comes to the natural gas exports. Also, for Russia's advantage maintaining control of Ukraine would provide it with a strategic edge while limiting Western influence, so this is why they decided to invade Ukraine for their protection against the west.⁹²

The president of Russia Vladimir Putin in 2022, justified the invasion of Ukraine by citing goals of "demilitarization and denazification." These assertions have been broadly debunked, given Ukraine's democratically elected government and its Jewish president, Volodymyr Zelenskyy. Russian president blamed Ukrainians for selecting president that has close ties with the west, and that caused threat to Russia. Russia also did everything to make its attack justifiable to the international standards because even before the 2022 invasion, President Putin falsely asserted that Ukraine was perpetrating a "genocide" against Russian-speaking populations in the Donbas region, using this claim as a justification for military action.⁹³

The aim of Russia was to invade Ukraine without any disturbances make it as legal according to the WTO, even though it never consults with dispute settlement mechanism as it knew according to international rules, there is nothing wrong Ukraine but in terms of geopolitical tensions Ukraine started a war they could not maintain.⁹⁴

3.7 Russia-Ukraine conflict war impact to the WTO Legal Structure

⁹¹ McDougal Making trade dispute settlement more accessible and inclusive

⁹² Basdekis 2022 Energies 18

⁹³ Basdekis 2022 Energies 21

⁹⁴ McDougal Making trade dispute settlement more accessible and inclusive

Article XXI permits WTO members to implement measures deemed necessary for their "essential security interests" during wartime or international crises, without scrutiny from the WTO. Russia used this provision to defend trade restrictions on Ukraine and retaliatory actions, such as agricultural import bans, against countries imposing sanctions. Likewise, the US and EU invoked national security to justify tariffs and export controls on Russia, claiming the conflict posed a threat to global stability. For instance, Ukraine is a significant exporter of agricultural products like wheat, sunflower oil and raw materials, experienced a sharp decline in exports by up to 30% in the first year of the conflict, worsening global food security. Also, Russia as a major supplier of energy (oil, gas) and metals, faced stringent trade restrictions from Western countries, contributing to a 1% decrease in global trade and a 0.7% reduction in global GDP. So, this did not come to be a good thing international especially on the western countries as the whole world economically was affected, as much as only two countries that are neighbours that are having conflicts, but it ended up resulting to global catastrophe while there is WTO.⁹⁵

Nevertheless, from a trade perspective, the conflict prompted over 1,000 sanctions from the EU, US, and their allies, targeting Russia's energy exports and financial systems. This was gaining traction now from the east fighting with the west, as Russia was well aware and warned any country that shall intervene the Russia Ukraine conflict will face serious consequences. The above measures, intended to economically isolate Russia, sidestepped conventional WTO dispute resolution processes by invoking national security exemptions under Article XXI of the GATT. The war also spurred trade diversion, with nations like India and China increasing imports from Russia, while Western countries sought alternative sources, leading to fragmented global supply chains. As much there is WTO, but this war also proved that there is lot of bias that still exists within these countries, as this conflict has shown lot of division among the same member nation of one WTO.⁹⁶

This context underscores the structural challenges facing the WTO, as its ability to regulate trade amidst geopolitical tensions is tested. Otherwise, this Russia Ukraine conflict war has exacerbated due to the fact that WTO relevance and resilience has slowly come to an end, since all of these wars are happening in front of it without any repercussion after it. Geopolitical tensions like this war have completely paralysed dispute settlement understanding, especially

⁹⁵ Lowenfeld 2004 American Journal of International Law 15-29

⁹⁶ Lowenfeld 2004 American Journal of International Law 34-48

with the fact that USA is rejecting the appointment of new judges , and most member nations have seen everything that has happened without any legislature from WTO intervening to aid in trade disputes or to maintain its deeply aim of keeping peace among member nation.⁹⁷

For instance, dispute settlement understanding is cornerstone of WTO when it comes to its legal structure , it must provide binding solutions according to the terms and condition of the institution of WTO especially in this conflict war. As a matter of fact, Russia's invasion to Ukraine led to the cancellation of its WTO Trade Policy Review in 2022, and lot of complaints issued are still without any solution due to the Appellant Body being unable to work . Even Ukraine itself did have special case against Russian steel invoked Article XXI , but that remain unresolved in the Appellant Body. So, what USA did intentionally of blocking the appointment of new judges had also cost their side because even though they support Ukraine in this situation they cannot use WTO legal authority to enforce any legal standing in this matter.⁹⁸

As a result, USA and EU decided to issue autonomous sanctions on Russian goods , has action was needed in this state but WTO was unable to help so the west decided to take this matter on their hands. By the stance of WTO when USA and EU issued those sanctions to the Russian goods, they also violated the principle of MFN, the non-discrimination policy because whatever they issued on Russia, must be imposed to each an every member nation of WTO equally without discrimination. Also, violated Russian goods by costing sanctions on them , meaning their prices will be higher in their local markets making it intentionally hard to consume Russian exports. Thus, USA and EU turned to have negative relations with any country that deals with Russia during this conflict because they wanted it to suffer when it comes to trading, and their policies according to WTO was not fair at all because USA and EU moves were so bias in the trading space, they choose to favour Ukraine not to try and fix the situation.⁹⁹

Furthermore, the outcome of USA and EU towards Russia, is a "might makes right" dynamic, where geopolitical tensions undermine confidence in multilateral dispute resolution mechanisms. USA and EU responses to the conflict of Russia and Ukraine is affected by lot history they had in the past, so whatever they held or sanction Russia with cannot be fair, because their decision will always be biased and unfair intentionally. It did not end with USA

⁹⁷ Mark 2016 Harvard International Law Journal 154-211.

⁹⁸ Lowenfeld 2004 American Journal of International Law 50-67

⁹⁹ Gao 2021 Journal of International Economic Law 87

and EU sanctioning Russia , also more than 40 countries internationally imposed their sanction on Russian goods, which had a very great effect on Russian's economic side , as they targeted Russian energy and technology exports.¹⁰⁰

This trend suggests that member states are increasingly disregarding the WTO's legal authority in favour of unilateral actions. The widespread imposition of sanctions against Russia, led by the United States and the European Union, indicates that geopolitical alliances now often supersede multilateral trade obligations. This shift reflects a diminishing fear of institutional repercussions, as powerful economies prioritize security and political alignment over the WTO's non-discrimination principles. Although again most-favoured-nation treatment was violated in terms of General Agreement on Tariffs and Trade Article 1 as many countries turned to be against Russia not because of how things started and went in their war with Ukraine, but since those countries were influenced by USA and EU that if any country continues to trade with Russia during the conflict war. That country might face serious consequences or sanction from USA too, which is many member nations are always scared of USA because of their standard in the international landscape.¹⁰¹

In terms of National Security those sanctions have resulted to a loss of \$120 billion in international trading by 2023. However, Russia had no choice to strengthen its ties with organisation like BRICS, which is Brazil, Russia, India, China, and South Africa , that is where Russia had to direct its export to , because these countries did not put sanctions to Russian exports, which was a good thing in term of stabilizing power in the international landscape. Since many countries sided with USA and EU it meant there was more dominance or rules taken by the west for everyone , so to challenge that other countries had to be against the west side, because so much power upon them already will lead to lot misusing it unfairly.

The Russia and Ukraine conflict war has caused lot economic loss in the trading landscape as a whole international many countries suffered a great loss not only Russia and Ukraine. Also, WTO regulations on subsidies and state-owned enterprises, such as Russia's Gazprom, are under pressure, as the Russia-Ukraine conflict revealed deficiencies in managing forced technology transfers and state support in economies during wartime. WTO's inability to intervene had a high price because most of its core principles were violated and it did not do

¹⁰⁰ Itakura 2019 Asian Economic Policy Review

¹⁰¹ Gao 2021 Journal of International Economic Law 144

anything to resolve or have a say in the conflict while member nations under it, were misusing their powers making decisions based on their relations with Russia or Ukraine.¹⁰²

The Russia-Ukraine conflict has hastened a shift from multilateralism to bilateral and unilateral approaches, echoing patterns seen in the US-China trade war. By bypassing the WTO, major powers show that geopolitical priorities can supersede legal obligations, generating uncertainty for businesses and raising global trade costs by 1-2%. Thus, the result of this erosion in terms of institutional authority threatens a complex web of fragmented trade agreements, diminishing economic efficiency and worsening inequalities for developing countries dependent on WTO safeguards. The Russia Ukraine conflict war has shown that international trading is mostly influenced and controlled by member nations of WTO, also the reliance of BRICS while there is WTO to deal with such matters have shifted or taken power from the WTO level as being the major global organisation that deals with resolve trading disputes.¹⁰³

Moreover, the Russia Ukraine conflict war has depicted that no matter which organisations that rules international trading, biasness will always exist unfairly , there was lot bypassing consensus of WTO, which had cause great weakening into the WTO's legal structure. In the long term, this could result in a divided global trade system, with one side led by Western nations and another by Sino-Russian interests, further undermining the WTO's universal framework. This would be very catastrophic in the entire world as the world would trade with lot of favouritism but would also be advantageous at some point to other nations like many countries do not each other. While they are situated in the same continent, because of being influenced by the rules of WTO using the main currency every time doing a trade, so many countries would actually trade in peace according to their own rules, term and conditions.¹⁰⁴

USA and EU in the long run will be very affected economically as they benefit a lot from countries that are in the east side for example China and South Africa with those two countries not trading with USA would be a very great loss as they are also dependent from other countries for their wealth. WTO legal structure future is not looking good especially more when this Russia and Ukraine conflict war is taking place, but what actually transpires is that the world

¹⁰² Gulati and Kelley Trade liberalization and Indian agriculture

¹⁰³ Rolland Development at the World Trade Organization

¹⁰⁴ Ademoglu 2016 Journal of Labor Economics 71

is going to trading according to sides in the near future where bilateral agreement will be a thing for two countries or more without the influence of other nations.¹⁰⁵

In this period of intense geopolitical tensions around the world , the Russia-Ukraine conflict serves as a critical case study of the WTO's vulnerability, while the US-China trade war circumvented WTO rules through bilateral agreements. Most significantly the Russia-Ukraine conflict war uses national security exceptions and sanctions to bypass multilateral obligations entirely. This demonstrates a wider trend where powerful nations put their own interests ahead of shared rules, taking advantage of loopholes in Article XXI and the stalled Appellate Body.¹⁰⁶

This Russian Ukraine conflict war has left devastating economic suffering throughout for example fragmented supply chains, trade losses, and food shortages, all of these bad results exhibit WTO's limited enforcement power. WTO power has been taken away by its member nations, as there are one who issued sanctions and take international decisions based on their perspectives.

The Russian Ukraine conflict war also demonstrates that disconnect between the WTO's institutional framework and the political will of its member nations is vital. Although the WTO was designed to ensure fairness and predictability, its dependence on judicial review and consensus fails when major powers like USA and EU act on their own, with no impartiality or fairness among the decision they took. This resembles historical shifts, such as the US-China trade war's shift to bilateralism, but the Russia-Ukraine case is distinct in its use of war and sanctions to justify trade violations, placing further stress on regulations governing state enterprises and subsidies.¹⁰⁷

Although when it comes to WTO there are exceptions in terms of national security like Article XXI permits countries, under specific conditions, to deviate from GATT obligations for national security reasons. However, that has caused many nations to violate that exception even beginning with USA and EU, have used national security as a justification for measures that allegedly violate GATT rules. For example, Japan imposed stringent export controls on South Korea, citing national security concerns. Likewise, what the USA and EU did to Russia based on the justification of national security was not procedural in terms of WTO, although they

¹⁰⁵ Ademoglu 2016 Journal of Labor Economics73

¹⁰⁶ Itakura 2019 Asian Economic Policy Review

¹⁰⁷ Gallagher Guide to the World Trade Organization and Developing Countries

knew their intention that interference in the Ukraine Russia would automatically increase the conflict and add more on the negative consequences, as Russia or any country barely entered in their US-China trade war. Even when USA had to make the decision of imposing increase tariffs on steel and aluminium in China it used national security as a defended, which was a clean violation of WTO exception.¹⁰⁸

3.8 Conclusion

Reflecting on the geopolitical tensions of the Russia-Ukraine conflict and the US-China trade war, several critical lessons highlight the global trading system's vulnerabilities, proving the WTO's indispensable role. The Russia-Ukraine war demonstrated that conflicts cause immediate supply chain disruptions, projected to reduce world trade by 1% and global GDP by 0.7%, while the US-China trade war showcased the perils of protectionism and decoupling, threatening potential long-term global GDP losses of up to 7%. Both cases reveal that unilateral actions and strategic rivalries amplify risks like inflation and policy uncertainty. These insights ultimately underscore the need for the WTO to evolve by implementing pragmatic reforms, such as strengthening enforcement and fostering diversified supply chains, to deter trade wars, prioritize de-escalation, and transform these crises into opportunities for a more robust and equitable multilateral framework.

After considering all of the impact caused by this particular geopolitical tension towards WTO, so the next chapter will vehemently expound on how WTO as an international organisation is still relevant and explore to its resilience based on the repercussions done by these geopolitical tensions.

¹⁰⁸ Gallagher Guide to the World Trade Organization and Developing Countries

Chapter 4 The relevance and resilience of World Trade Organisation

4.1 Introduction

The relevance and resilience of WTO have been affected negatively by geopolitical tensions especially its paralysis of Appellate Body. Thus, the WTO's legal status is at risk if it cannot adapt to ambitious, non-discriminatory climate measures. The case studies of US-China trade and Russia-Ukraine war exposed a significant discrimination within WTO as it treats the have and the have nots countries differently.

Anyway, Chapter Four, examines the WTO continued relevance and resilience in 2025, demonstrating how it actively supports global trade stability amid uncertainties like tariffs, geopolitical fragmentation, and economic disruptions. This content is placed as Chapter Four because it logically follows the preceding foundational chapters on the WTO's establishment (Chapter One), its dispute settlement system (Chapter Two), and the context of geopolitical tensions (Chapter Three). By presenting a specific case study here, the chapter serves to bridge historical mechanisms with contemporary challenges, providing current evidence of the WTO's adaptability and endurance to affirm its vital, ongoing role in the multilateral trading system.

4.2 The relevance and the resilience of the World Trade Organisation

At the moment, WTO still has its name and its status as a legally recognised international organisation, but it is failing to fulfil the promises it made when it was launched. Many countries are turning to bilateral agreement, trading with geopolitical favours now and launching new international relationship with whoever they wish.¹⁰⁹ The WTO relevance in these geopolitical tensions has been reduced to an insignificant global organisation, because without a functioning appellate mechanism, the WTO's dispute settlement body cannot finalise any decision or deliver binding resolutions. So, the story of WTO that was once hailed as the cornerstone of the organization, to become almost like a body of international organisation that is there without any action or interference in global trading disputes as its aims for launching it in the first place.¹¹⁰

This undermines the rules-based trade system, leaving member states without effective means to challenge unilateral actions, and things have gotten worse without WTO operation since the

¹⁰⁹ Yeats "The escalation of trade barriers"

¹¹⁰ Yeats "The escalation of trade barriers"

only countries that can stand against each are those with strong financial stability. For instance, China standing toe to toe with USA when it came to imposing new tariffs, unlike in the situation where USA decided to go and bomb which was this year June 2025, and USA military force followed decision of Donald Trump and strike a series of airstrikes, on three Iranian nuclear facilities.¹¹¹

In this situation it does not matter anymore to take case to the WTO because although initial WTO panels have ruled in China's favour like in the in 2023 with retaliatory tariffs. But that did not worry anything USA as they knew they will just appeal the decision taken by the WTO panel, and once the decision has been appealed it cannot be enforced to the USA, since WTO Appellant Body cannot engage in appeals because of the insufficiency of the number of judges there, and the blockage done by USA for the appointment of new judges.¹¹²

However, the US-China trade war also underscores a fundamental conflict between the WTO's market-oriented principles and China's state-controlled economic model. The USA Trump administration contends that China's practices, including industrial subsidies, state-owned enterprises (SOEs), and intellectual property theft, create an unfair trade environment that the WTO's current framework struggles to address.¹¹³ So, the US had targeted Chinese subsidies in industries like semiconductors also new energy vehicles, claiming they distort global markets and violate the market-based principles central to the WTO.

Although the WTO's subsidies and countervailing measures aims to regulate such practices, enforcement remains challenging. But China's non-market economy status and the paralyzed dispute settlement system hinder definitive legal resolutions, likewise in the case of USA, even if China's case has been imposed as illegal but USA cannot enforce any ruling on China's economy validly because WTO legal authority is not able to work.¹¹⁴ Yet, the WTO's inability to effectively regulate a major state-led economy, has frustrated many members nation even the US and others nations which have simple turned to unilateral measures, which it is also against WTO MFN principal rule , as any country when making a new rule it must apply to all countries in the same level. This weakens confidence in the multilateral system and drives

¹¹¹ Young 1985 The International Lawyer

¹¹² Waincymer 1985 North Carolina Journal of International Law and Commercial Regulation

¹¹³ Gallagher Guide to the World Trade Organization and Developing Countries

¹¹⁴ Graham Free trade: Myth, reality and alternatives

trends like de-risking or friend-shoring, where nations prioritize geopolitical alliances over economic efficiency in reshaping supply chains.¹¹⁵

Now in 2025 the US-China trade war transcends mere tariff disputes, serving as a critical test of the WTO's relevance and capacity to regulate trade amid fierce geopolitical rivalry. This case study reveals that the WTO's legal framework, crafted for a more collaborative post-Cold War era, struggles to address contemporary challenges. The combination of a paralysed dispute settlement system, misuse of national security exemptions, and the irreconcilable differences between economic models has significantly undermined the WTO's role as an impartial enforcer. Although the WTO remains a platform for dialogue, its core ability to enforce rules and resolve disputes has been severely compromised. The future of global trade hinges on whether WTO members can revitalize its authority or if a new legal framework will emerge to replace it.¹¹⁶

WTO legal status is still there just to follow the procedure or abide with international rules and then since all nations know that WTO cannot make final decision or enforcement of it. So, every nation would claim to report to the WTO, and since WTO dispute settlement mechanism cannot really enforce any decision to nation a country would decide to continue to take their case individually as a member nation in the WTO organisation

The trade war escalated to the point where China has made a decision to just match the tariffs of 50%, bringing its baseline tariff on American goods to 84%, while USA increased the tariffs to 145%. Thus, at the end China then increased its tariffs to 125%. Ultimately, after some time both countries decided to come together and have a conversation to reach a goal to decrease trade war, and as a result USA decreased tariffs on Chinese goods to 30% while China responded by reducing tariffs on U.S. products to 10%. However, this is a proof that WTO resilience has been affected by these geopolitical issues, especially USA and China trade since it started long time ago even during the first term of Donald Trump being a president.¹¹⁷

The dispute started with China's claim that the U.S. measures, including additional duties on imports, violate WTO obligations. The broader context is a long-running trade dispute, but the

¹¹⁵ Matsushita The World Trade Organization: Law, practice, and policy

¹¹⁶ Young 1985 The International Lawyer

¹¹⁷ Waincymer 1985 North Carolina Journal of International Law and Commercial Regulation

specific WTO case launched in April is yet to reach a final resolution, and its ability to be effectively resolved is complicated by the WTO's paralysed dispute settlement system.

However, the threat of legal challenges under the WTO rules, particularly GATT compatibility, shapes policy design, acting as a de facto enforcement mechanism. This underscores the WTO's role as a legal benchmark, compelling compliance even without a functioning dispute settlement court. Anyway, for the WTO to remain relevant, it must foster a new multilateral consensus that integrates environmental goals with developmental equity. As a result, failure to do so could lead to a fragmented global trading system, with competing climate blocs undermining its authority.¹¹⁸

4.3 The Current Relevance of the WTO

Nevertheless, the WTO remains the only international organisation that offers with global trade dispute resolution and fosters economic cooperation among its 166 member countries. In that regard it has been very successful despite being affected by the above case study of the US-China trade war. WTO economists have adjusted new outlook documents for international merchandise trade growth in 2025 to 2.4%, and this simple means that there is a huge demand for AI-related goods and frontloading of imports amid tariff uncertainties.¹¹⁹

The positive contribution of the WTO benefited the African continent this year as the stability of global trading has grown immensely, especially in areas like the advancement of Africa's digital trade. The WTO has also been able to avert a broader cycle of retaliatory tariffs, which could have been very damaging to global trade. Moreover, the WTO has also encouraged the thriving significance of trade in artificial intelligence goods and supported the fourth industrial revolution. According to the WTO, the development of AI and the fourth industrial revolution will be greatly beneficial to developing countries as they will collaborate more with developed countries.¹²⁰

For instance, Rwanda has decided to collaborate with China, to create the first new air taxi in Africa, which brought advanced tech and skill to their country. However, Rwanda decided to call on China to help them create a new transport system that flies in the air, with many benefits it brings like reducing rate of accidents in the road, traffic congestion, road destruction. Also,

¹¹⁸ VanGrasstek The history and future of the World Trade Organization

¹¹⁹ Zhang et al 2023 Finance Research Letters 53

¹²⁰ Pauwelyn 2019 Journal of International Economic Law 191

the new air taxi that is created by Rwanda is going to create some jobs, boost their economy in tourism since many people will want to view this taxi and ride it, and with them selecting China as their partner to assist them in this idea it means the air taxis will be is very fast, efficient, safe and very comfortable.¹²¹

Furthermore, WTO has also assisted the African continent with investments in term of skills and finances. Almost every country in Africa has very prolific mineral resources but they do not have the right leadership and economy to use those minerals for their countries. Instead, few people benefit from those minerals without external the influence of WTO members. Likewise, some of the countries in WTO decided to invest approximately €12 billion (around \$12.5 billion) to South Africa in October 2025 through the Global Gateway initiative to support its transition to a green economy. This investment will fund projects in renewable energy, critical minerals, green hydrogen, and infrastructure to boost inclusive and sustainable growth.¹²²

In addition, the WTO has also come up with new ideas of promoting digital trade in Africa, as new reports from the WTO and World Bank declared that the two, were very happy with the progress of the "Digital Trade for Africa" project, which will be very lucrative in many African nations to leverage the benefits of digital trade. The purpose of this new innovative idea from WTO is to strengthen development prospects and integrate the continent into the digital economy.¹²³

Even in terms of the WTO being unable to enforce its decision because of dispute settlement mechanism continues to function at the level of insufficient judges, but some alternative arrangements were made by some member nation in the WTO to try and counter-act the situation. For instance, the introduction of MPIA to maintain enforceability. Although WTO is currently not doing so well in terms of its consistency and relevance is affected a lot by these geopolitical tensions raising mainly from US-China trade war and many other countries, but it has little positive sides coming up there and there as it is the only international organisation in the trading global space.¹²⁴

¹²¹ Gallagher Guide to the World Trade Organization and Developing Countries

¹²² Escaith, Lindenberg and Miroudot "International Supply Chains and Trade Elasticity in Times of Global Crisis

¹²³ Palmeter and Mavroidis Dispute settlement in the World Trade Organization

¹²⁴ Lee YS Reclaiming development in the world trading system.

4.4 Conclusion

However, the WTO has proven itself in the past years before its collapse of dispute settlement resolution it was very pivotal organisation that dealt a lot with equality and promoted fair trading inclusive of its member nations, yet after the collapse things have been very hard for it to move and it has lost its credibility, also integrity as the only best international organisation in trade. A lot of changes are needed in the WTO which by the way where the world is going it seems very unlikely that WTO dispute settlement mechanism will be fixed soon, there is still a very long way to go from now to WTO. Since most of the countries have lost dependence from WTO and it is not easy to regain trust also with what USA has been doing with these tariffs introduction and will continue to do especially on developing countries wanting to detect every country that has not good financial back-up or nuclear weapon, many countries are going to choose to affiliate with what is going to benefit themselves.¹²⁵

There is lot of bilateral trading deals and agreement that is going to rise, since it is easy to create rules that will govern two countries with fairness to both of them and great respect than to rely on an organisation that provides rules for 166-member state countries and with lot of unfair treatment from the big five members. Furthermore, many regulated organisations will still thrive like BRICS, EU etc, because that is where the world is going to be divided within certain groups where countries are mostly comfortable in terms of trading space and growing their economies with fair procedures.¹²⁶ That is why is it very significant to look at the future outlooks of the WTO since the current status of it when it comes to its resilience is not healthy.

¹²⁵ Van den Bossche and Zdouc The law and policy of the World Trade Organization.

¹²⁶ Hillman "The United States Needs a Reformed World Trade Organization Now"

CHAPTER 5 Future outlooks of World Trade Organisation

5.1 Introduction

Chapter 5 will provide a future outlook for the WTO, analysing projected merchandise trade growth scenarios for 2025 and 2026 against the backdrop of global challenges like geopolitics, tariffs, and AI. It will also explore strategies for enhancing WTO resilience through reforms like dispute settlement improvements and inclusive policies. Furthermore, the chapter will evaluate the repercussions of the WTO on its member countries, examining the spectrum of effects from economic benefits derived from stable trade rules to criticisms of institutional bias and the risks of trade discrimination if major economies reassess their commitment.

5.2 Future of the WTO

When it comes to the future of World Trade Organization, it faces a complex future shaped by significant challenges and opportunities, yet it remains vital for global trade. Its trajectory is influenced by geopolitical dynamics, technological shifts, and the urgent need for internal reform, all of which carry profound implications for its member nations. However, when it comes to the future prospects of the WTO, initially there are lot of challenges to Multilateralism and Rising Protectionism within WTO, for example geopolitical strains, such as ongoing trade conflicts, particularly between major powers like the US and China, undermine the WTO's multilateral framework. Unilateral measures, such as tariff hikes, challenge the organization's core principles.¹²⁷

Thus, increasing protectionism, like a surge in protectionist policies among members tests the WTO's ability to curb such practices. The organization has cautioned that escalating tensions could lead to a decline in global trade. Also, shift to regional agreements, like frustration with stalled WTO negotiations has driven countries toward regional and bilateral trade deals. While these agreements may foster trade liberalization, they risk fragmenting the global trading system and diminishing the WTO's relevance.¹²⁸

Many member nations of WTO have actually come to a place where they negotiate deals based on their privileges for examples countries in BRICS trading together with advantage since, they are developing their international organisation favouring the east countries rather than the west.

¹²⁷ Sharma "World Trade Organization Appellate Body at crossroads: Options and alternatives"

¹²⁸ Gessen The future is history: How totalitarianism reclaimed Russia.

Also, the failure of the Doha Round and difficulties in reaching new agreements have fuelled demands for institutional reform to address modern trade issues, such as digital commerce and environmental concerns.

The WTO's dispute resolution mechanism is a cornerstone of the organization, since it is still crippled by the inability to appoint new Appellate Body members. It is of no relevance to the international disputes for now, so restoring this system is critical to maintaining the WTO's authority in enforcing trade rules. Likewise, the WTO's rules lag behind advancements in global supply chains and technology. It faces pressure to update its framework to cover areas like e-commerce, digital intellectual property, and state-owned enterprises.¹²⁹

The WTO's future trajectory has far-reaching consequences for its members, particularly in the following areas, impact on trade and economic growth, sovereignty and domestic reforms. Initially in terms of economic side affected by weakened WTO, and this has resulted to a lot of increased uncertainty particularly its dispute settlement system. Since it can no longer deal with appeal cases, and that creates unpredictability in global trade, raising costs for businesses and potentially slowing economic growth.¹³⁰

The collapse of the WTO's rules-based system will hit developing and least-developed countries hardest, as they rely on the WTO for market access and dispute resolution against stronger economies. As it is estimated that a potential one-third reduction in exports for these nations if the WTO falters. Since there was lot of unequal benefits with developed nations gaining more and some developing countries facing challenges, particularly with intellectual property rules.¹³¹

Furthermore, in terms of the main aims of WTO, which is the non-discrimination policy (Most-Favoured-Nation and National Treatment), without WTO or its body to make decisions weakened like this, as it continues, there will be a lot of discrimination and unfair treatment when it comes to trading upon the international trading sphere. Likewise, USA wanted to make a deal that was very unfair to Mali recently, where Mali denied an offer from USA that wanted them to accept deportees from US, and after that rejection USA decided in response, to add

¹²⁹ Hoffmann Conflict in the 21st century: The rise of hybrid wars.

¹³⁰ Shulman 2004 Europe-Asia Studies.

¹³¹ McCall Smith 2003 World Trade Review.

Mali to its visa bond program, demanding a \$10,000 deposit for tourist and business visas for Malian citizens.¹³²

However, since it is clear that WTO is no more respected or followed, even developing countries are tired of always submitting to developed countries with unfair treatment as a result Malian president decided to retaliate and impose a reciprocal requirement on USA nationals. Mali decided to introduce a new visa bond of up to \$10,000 for USA citizens traveling to Mali, just like what president Trump did to them, so the ignorance or weakening of WTO as the only international organisation that is responsible for these matters is overly concerning.¹³³

More often another significant principle of WTO is to promote free and predictable trade (reducing barriers), by implementing fair competition, pushing for development, and transparency in trade rules. Likewise, USA currently just sanctioned South Africa and all countries that are in BRICS with 10% tariffs, one of the reason that they are in BRICS, which Donald Trump believes they are trying the process of de-dollarization, also since China and Russia are a threat to USA, so South Africa is punished by Donald Trump for its association with those countries.¹³⁴

But according to the principles of WTO, which is independent international legal organisation that is supposed to govern without favouritism, countries must trade free and have fair competition not for what USA is punishing countries for. This proves there is still going to be lot serious conflict that are still going to occur between these countries, without WTO not being to work or to enforce its final decision, it is still going to a catastrophe in the world, peace will be very hard between many countries. Ultimately, WTO also provides mechanisms for dispute settlement and offers special consideration for developing countries, which is going to disadvantage developing countries if WTO structural system cannot operate well.¹³⁵

5.3 Conclusion

In summary, the WTO stands at a pivotal moment. Its ability to reform, adapt to new global challenges, and rebuild trust in multilateralism will determine its future. The outcomes will

¹³² Sperling and Webber 2019 Review of International Studies.

¹³³ Zhannikov 2019 <https://www.reuters.com/article/us-russia-oil-belarus-factbox/idUSKBN1YZ0XW>

¹³⁴ Zhang et al 2023 Finance Research Letters 53.

¹³⁵ Lowenfeld 2004 American Journal of International Law 114- 119.

significantly impact international trade, economic stability, national sovereignty, and the development prospects of its diverse member countries. Thus, that is why the last chapter will present the recommendations for WTO, and that could be very fruitful, even to prevent some of the outcomes of WTO.

Chapter six: Recommendations and conclusion

6.1 Introduction

The purpose of this paper was to examine how the WTO framework maintains its role as the cornerstone of multilateral trade while navigating escalating geopolitical tensions and real-world disruptions. In conclusion, while conflicts like the Russia-Ukraine war and the US-China trade war reveal profound vulnerabilities, the analysis affirms the WTO's resilience through its rules-based system and ongoing relevance in stabilizing trade, even amid institutional issues like the Appellate Body crisis. Looking ahead, the WTO's enduring effectiveness hinges on inclusive reforms that address power imbalances, enhance enforcement against unilateralism, and integrate emerging issues, making its continued support a strategic necessity for a cooperative global order.¹³⁶

6.2 Conclusion

This research has articulated the World Trade Organization (WTO) framework and expounded a robust yet strained system of international trade law. Designed to foster a stable, predictable, and rules-driven environment for global commerce, the WTO relies on the core principles of its non-discrimination rule, the Most-Favoured-Nation and National Treatment and its binding dispute settlement system (DSS), often regarded as its cornerstone.

However, many geopolitical conflicts, have significantly challenged this framework vigorously for instance rise of protectionism, unilateral trade actions, and frequent use of national security exemptions have pushed the boundaries of WTO agreements. The most critical issue is the paralysis of the Appellate Body, which has severely undermined the WTO's enforcement capabilities. This crisis stems not from technical flaws but from deep political divisions, particularly from the US, regarding the scope of the WTO's legal authority.¹³⁷

Even though the WTO has faced so many pressures, it has not yet collapsed. However, it remains a critical platform for dialogue, negotiation, and transparency, regardless of having no power to enforce decisions or even take final precedence on current issues occurring worldwide. Its legal framework is rooted in its agreements and principles that continue to underpin most global trade, even as members take actions that test its limits. The WTO's

¹³⁶ McDougal Making trade dispute settlement more accessible and inclusive 90-120

¹³⁷ Mark 2016 Harvard International Law Journal 261-324.

adaptability, driven by its member-centric structure, enables alternative approaches like plurilateral agreements on issues such as e-commerce and fisheries subsidies, suggesting that while comprehensive multilateralism is stalled, the legal system can support new forms of collaboration.¹³⁸

6.3 Recommendations

The WTO is the only international organisation, that aids with serious cases internationally, so to preserve its relevance and avoid further sidelining, it must address the critical weaknesses revealed by the US-China trade war. This requires urgent reforms to the dispute settlement system, clearer definitions of the scope and legal boundaries of the national security exception, and updated regulations to address contemporary challenges such as state-owned enterprises and forced technology transfers. Nevertheless, if these changes are not composed, WTO faces the danger of becoming obsolete in a global trade landscape increasingly shaped by geopolitical tensions.

The expansive interpretation of Article XXI has undermined the WTO's predictability. Before the conflict, panels hesitated to review Article XXI claims, treating them as self-judging. The Russia-Ukraine war intensified this issue, with over 20 disputes filed by 2023, including Ukraine's challenges to Russian trade restrictions and Russia's objections to Western sanctions. The absence of a functioning Appellate Body, stalled by U.S. blockages since 2019, has left many cases unresolved, enabling powerful nations to act unilaterally. This shift toward a "power-based" approach erodes the WTO's rules-based framework, as geopolitical adversaries exploit the national security exception to bypass obligations, creating precedents for future conflicts.

In the context of the Russia-Ukraine military conflict, Ukraine's trade sanctions on Russia clearly fall under Article XXI of GATT. Similarly, sanctions imposed by Canada and the European Union (EU) in Russia are also covered by this provision, even though neither is directly involved in the conflict. Russia's violation of Ukraine's territorial sovereignty, breaching Article 2(4) of the UN Charter, triggers essential security interests for nations.

¹³⁸ Lowenfeld 2004 American Journal of International Law 90-120

Additionally, Russian President Vladimir Putin's warnings to Western nations supporting Ukraine highlight heightened global tensions, further justifying such measures.

More broadly, the growing use of Article XXI in recent years poses risk in the global trading system. The Russia-Ukraine conflict has already disrupted international trade, undermining the mutual trust essential to the global trading regime. Increased reliance on Article XXI could further destabilise the global trading order, leading to greater chaos. Ideally, Article XXI should remain a rarely used provision to preserve stability in international trade.

In order to alternate the situation of the WTO's framework and maintain its relevance amid geopolitical tensions, the following legal and institutional measures are essential:

Initially, the first major step is to revitalise and reform the Dispute Settlement System. That can be done through restoration of the appellate body operations, which means that members should urgently seek a consensus-driven solution to revive the appellate body, potentially through compromises addressing concerns about judicial overreach and procedural inefficiencies.

Furthermore, the second step would be to explore innovative models, such as a standing arbitrator pool or ad hoc appellate panels requiring consensus to enhance the dispute resolution process. Thus, refine WTO rules by initiating negotiations to clarify key legal texts, particularly on subsidies, digital trade, and national security exemptions (GATT Article XXI), to provide adjudicators with precise guidance and minimise politically charged disputes.

Moreover, WTO must promote flexible negotiation frameworks, by integrating and formalizing plurilateral agreements within the WTO's legal structure, establishing clear guidelines for their negotiation and adoption. This enables willing members to advance on critical issues without being hindered by universal consensus, while remaining under the WTO umbrella. Also, enhance transparency and dialogue, by strengthening the WTO's role as a hub for transparency by leveraging trade policy reviews and forums for addressing specific trade concerns, helping to resolve disputes early and prevent escalation.

In addition, the WTO should develop Digital Trade Rules, creating a comprehensive legal framework for digital trade, to address data flows, e-commerce, and related issues in a transparent manner. In order to prevent fragmented national regulations that could disrupt global markets. Thus, WTO should incorporate environmental and social goals, to align WTO

rules with global priorities like climate change by clarifying the compatibility of measures like carbon border adjustments and developing new provisions to support sustainable and inclusive trade.

The WTO's enduring strength lies not in eliminating geopolitical tensions, but in its ability to offer a stable, predictable, and legally robust framework to navigate them. By reforming its core mechanisms and adapting to modern trade realities, the WTO can remain a vital pillar of the global economic system.

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