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Why Countries Retain Membership in International Trade Institutions

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Abstract

From 1947 and the onset of the GATT through to the WTO in 2024 only four countries have withdrawn from the rules-based international trade regime. This is an amazing record given the degree and ferocity of the criticisms the GATT/WTO receives. Its membership currently stands at 166 Member States. While the WTO constrains the political space to maneuver for developed countries, it is the supposed failings of the WTO for developing countries that receives the most attention. Despite this criticism, developing countries choose to remain members of the WTO. The perceived benefits must exceed the costs of membership. In part, this is due to the design of the institution, right from its outset in the late 1940s.

Keywords: criticism, GATT, membership, withdrawal, WTO

Introduction

China, having undertaken to apply provisionally the General Agreement on Tariffs and Trade as from 21 May 1948 by virtue of signature on 21 April 1948 of the Protocol of Provisional Application, notified the Secretary General of the United Nations on 6 March 1950 of the withdrawal of such

application. In accordance with paragraph 5 of the Protocol of Provisional Application, this notice of withdrawal became effective on 5 May 1950.
United Nations Treaty Series, 1950

From its inception in 1947 until its 1994 revision and its being subsumed into the World Trade Organization (WTO) in 1995 the General Agreement on Tariffs and Trade (GATT) saw only four countries withdraw – The Republic of China, Lebanon, Syria and Liberia. In the formal application to withdraw from the GATT no reason had to be given. The Republic of China had been very involved in the negotiation of the International Trade Organization (ITO) and the GATT in the early years after the Second World War (Kerr, 2010). By 1950, however, the Nationalist Government under Chiang Kai-shek and the Kuomintang had lost the civil war and had retreated to Taiwan. Although continuing to claim it was the legitimate government of all China (Loh, 1966, Matsumoto, 2018), it no longer controlled the *customs territory* of mainland China and, hence, could not fulfil its GATT obligations to other signatories. As a result, it withdrew from the GATT.

No formal reason was proffered for the 1951 withdrawal of Lebanon and Syria from the GATT but according to Malkawi (2018):

The reasons for Lebanon's withdrawal from the GATT remain unclear. One may suspect that the reason for Lebanese withdrawal was the intention of Israel to join the GATT.

Six months later Syria also gave notice it was withdrawing from the GATT. Liberia withdrew from the GATT in 1953.¹

No country has withdrawn from the World Trade Organization to date – formally from the Marrakesh Agreement Establishing the World Trade Organization. Of course, WTO membership continues to expand with the current membership (as of August 30, 2024) at 166 countries. This is actually an amazing record given all of the changes in the global trading economy since 1947 and leads one to ask what is the secret of the success of international trade institutions? Initially, the long-term prospects for the GATT were not favourable. According to John Jackson:

If one were asked in the early years of the General Agreement of Tariffs and Trade (GATT) whether or not it would survive long, his answer no doubt would have been very pessimistic (Jackson, 1967, p. 131).

Process

The negotiators of the GATT agreement made withdrawal as easy and simple as possible. Article XXXI lays out the requirements for a member to withdraw:

Without prejudice to the provisions of paragraph 12 of Article XVIII², of Article XXIII³ or of paragraph 2 of Article XXX, any contracting party may withdraw from this Agreement, or may separately withdraw on behalf of any of the separate customs territories for which it has international responsibility and which at the time possesses full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement. The withdrawal shall take effect upon the expiration of six months from the day on which written notice of withdrawal is received by the Secretary-General of the United Nations.⁴

There is no obligation to provide a reason for withdrawing. It underlies the notion that the GATT was a voluntary organization and that Members had the right to leave at any time.

The ease of withdrawal feature of the GATT was continued in the case of the WTO. Article XV of the Marrakesh Agreement Establishing the World Trade Organization states:

Any Member may withdraw from this Agreement. Such withdrawal shall apply both to this Agreement and the Multilateral Trade Agreements and shall take effect upon the expiration of six months from the date on which written notice of withdrawal is received by the Director-General of the WTO.⁵

The ease of withdrawal means that no country fears being trapped into having to fulfil international obligations that it no longer feels it can live up to. No country other than the four discussed above have felt they needed to avail themselves of the option to invoke Article XXXI of the GATT and subsequently Article XV of the Marrakesh Agreement.

Contrast the ease of withdrawal with the process of acceding to the WTO. Accession requires a country to accept a set of rules it had no part in making. It must negotiate the terms of its accession with all interested Member States – a one-sided negotiation where it must make concessions while not asking anything in return. Accession requires applicants to make (sometimes significant) changes to the operation of its economy so that it conforms to the rules of the WTO. Article XII (1) states:

Any State or separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters provided for in this Agreement and the Multilateral Trade Agreements may accede to this Agreement, *on terms to be agreed between it and the WTO*. Such accession shall apply to this Agreement and the Multilateral Trade Agreements annexed thereto (emphasis added).

Article XII (2) goes on to state:

Decisions on accession shall be taken by the Ministerial Conference. The Ministerial Conference shall approve the agreement on the terms of accession by a two-thirds majority of the Members of the WTO.

In its own comments on Article XII, the WTO states:

Perhaps the most striking thing about WTO Article XII is its brevity. It gives no guidance on the “terms to be agreed”, these being left to negotiations between the WTO Members and the applicant. Nor does it lay down any procedures to be used for negotiating these terms, these being left to individual Working Parties to agree.

Once a formal accession request has been received, a Working Party consisting of interested Members is established. The applicant negotiates bilaterally with individual Member States. The process continues until a consensus is achieved by members of the Working Party. At that point the accession agreement is submitted to the General Council for approval. Approval is achieved if two-thirds of the Members approve of the accession.

In practice, the process of accession can be time consuming with the bilateral negotiations being the major stumbling blocks. The process typically takes years to complete. According to Chemutai and Escaith (2017, p. 3):

The accessions process spans over a considerable time-frame; 12.75 years for LDCs, 9.5 years for Non-LDCs and an overall average of 10.3 years for all WTO accessions. The shortest accession was the Kyrgyz Republic while the longest accession was Seychelles with 2.8 and 19.9 years, respectively. During this lengthy period are bouts of domestic, bilateral, plurilateral and multilateral negotiations between the acceding government and the WTO membership interested in engagement.

It can be a political process with Members of the Working Party able to stall the process. China’s accession, for example, took fifteen years (Hobbs and Kerr, 2000; Kerr and Hobbs, 2001). Hence, while leaving the WTO may be easy, rejoining can be a long and difficult process with unpopular concession having to be given in the bilateral negotiations with existing members of the WTO. Thus, unless one is sure one will not want to rejoin the WTO at some point in the future, it may be better to remain as a Member. It is hard to imagine a situation where leaving was the only choice or the costs of remaining were too high. A country can choose not to take an active roll in the WTO, yet remain a member in good standing (Kerr, 2002).

The Naysayers

Those who have serious doubts about the wisdom of remaining a Member country of the WTO have a wide range of perspectives. One of the WTO’s greatest detractors is former US President Donald Trump. According to Horton and Hopewell (2021):

During his tenure, Trump arbitrarily imposed tariffs on all of the United States' major trading partners, launched a trade war with China, and blatantly violated the rules of the WTO – *even repeatedly threatening to withdraw from the institution* (emphasis added).

In an interview with Reuters in August 2018, President Trump said: “If they don't shape up, I would withdraw from the WTO” (BBC August 18, 2018). The President had a litany of complaints against the organization – primarily related to Chinese unfair business practices which are not actually dealt with by the WTO (Kerr, 2020). The Trump administration wanted to impose tariffs and other trade policies in retaliation for the nefarious business practices, but the WTO does not allow the imposition of trade sanction for activities its Agreements do not encompass. This situation frustrated the US administration. Primarily, however, President Trump sees the WTO as a constraint on his ability to act – which is also observed in his domestic politics (and his personal life) (Kerr, 2018). Although the administration of President Trump contemplated leaving the WTO, and was willing to publicly threaten such an action, it did not withdraw the US from the organization.

The WTO has been a focus for conspiracy theorists since it's inception (Dale, 1994):

International conspiracy theorists in Washington are putting about a new scare: Secret conclaves of bureaucrats, many from developing countries hostile to America, are about to take over the world trading system. Delegates from places like Burma and Cuba will impose their will on the United States, preventing it from enacting its own laws to protect the environment and the health of its population - even from raising its own taxes.

This sinister bid for world governance will be launched by the new World Trade Organization that is to start operations next year, probably in Geneva, as successor to the General Agreement on Tariffs and Trade.

The message is that a country should not belong to the WTO.

In a similar vein Greg Palast writing in the *Global Policy Forum* in 2001 reported:

Three confidential documents from inside the World Trade Organization Secretariat and a group of captains of London finance, who call themselves the "British Invisibles," reveal the extraordinary secret entanglement of industry with government in designing European and American proposals for radical pro-business changes in WTO rules. One set of documents, minutes of the private meetings of the Liberalization of Trade in Services (LOTIS) committee were discovered by the Dutch think tank Corporate Europe Observatory. They record 14 secret meetings from April 1999 and February 2001 between Britain's chief services trade negotiators, the Bank of England and the movers and shakers of the Euro-American business world. Those attending the closed LOTIS include Peter Sutherland, International Chairman of US-based investment bank Goldman Sachs and

formerly the Director General of the World Trade Organization. LOTIS is chaired by The Right Honorable Lord Brittan of Spennithorne Q.C., who, as Leon Brittan headed the European Union. He currently serves as Vice-Chairman of international banking house UBS Warburg Dillon Read. ...

“For a long time conspiracy theorists thought there had been secret meetings between governments and corporations,” said Coates⁶. “Looking at these minutes, it was worse than we thought.”

Needless to say, if one believes this view, a country should withdraw from the organization.

Much of the criticism of the WTO stems from the perception that the WTO is skewed against developing countries to the benefit of developed countries. According to Aileen Kwa commenting in *Focus on the Global South* in 1999:

For most developing countries, WTO agreements bring negative consequences because they foreclose a wide range of development options. Through the agreements, governments give up their power to control their domestic economies and set their development priorities.

Oxfam has been one of the most vocal critics of the WTO. Watkins (2001), writing in *Oxfam International* states:

Hypocrisy and double standards characterise the behaviour of industrialised countries towards poorer countries in world trade. ... At the forthcoming World Trade Organisation summit in Doha, the biggest global meeting on trade since Seattle, WTO members must end the cycle of broken promises and build the foundations of a more equitable world trading system. ...

Hypocrisy and double standards have characterised the behaviour of rich countries towards poorer countries in the WTO. This has undermined the efforts of poorer countries to harness trade for development, and threatens the credibility of the multilateral trading system.

In February 2024 Bilaterals.org reported:

Farmers started protesting on Tuesday with a new set of demands including a legal guarantee of Minimum Support Price (MSP) for crops and India’s withdrawal from the World Trade Organization (WTO). The protesting farmers also want India to scrap all Free Trade Agreements (FTA). But why are farmers demanding withdrawal from WTO?

The international trade body deals with the rules of trade between nations. According to WTO rules, member countries are required to limit the amount of domestic support they provide to their agricultural producers. This is because excessive subsidies can distort international trade. ...

India has been a member of WTO since January 1995. Indian farmers want legal guarantee regarding MSP, but WTO rules are exactly the opposite. India has also promised that it will not give any guarantee on fixing its MSP. Due to this, farmers want India to come out of WTO to accept their demands

related to MSP. Besides, it should also cancel all FTAs so that it does not have to bow to the conditions of any other country or organization.

These criticisms of the WTO implicitly or explicitly suggest that countries should withdraw from the WTO – or not seek membership. Yet none of them have chosen to withdraw, and many have joined in the face of these criticisms and other countries are in the process of accession. As of August, 2024 sixteen developing or least developed countries are engaged in the WTO accession process. Although the WTO is heavily criticized, these failings apparently do not outweigh the benefits of being a member.

Because it was designed that way

The negotiators of the GATT were cognizant of the fragility of the organization they were designing and of the types of protectionist pressures that governments would face once the process of trade liberalization commenced. They were also cognizant of what today would be called *network effects* if they could retain members and increase the number of countries which would embrace membership. They designed the withdrawal process to be simple so that member countries would not feel trapped in the organization. They also incorporated a decision-making process based on consensus so that countries would not be in a position where they opposed a majority decision and felt the only acceptable course of action would be to leave the GATT.

They were also careful to ensure that the agreement was not constituted to be a legal system in that countries could be punished in ways that replicated the use of the power of the state to enforce laws in the domestic legal systems of nation states – again to ensure countries would not use the option of withdrawing to avoid legal sanctions. In particular, any sanctions imposed would have already had to have been agreed to during the negotiations. For example, having dumping recognized as an *unfair* trade practice in the agreement and anti-dumping procedures agreed prior to the agreement coming into force meant that countries had already agreed to anti-dumping duties being applied *ex ante* to any case being brought. Of course, any particular dumping accusation could be contested. The potential for the imposition of anti-dumping duties, however, had already been agreed (Kerr. 2006).

In the vein of ensuring that the GATT/WTO was not a binding legal system, members were always given an *out* if domestic political pressure became too great. Countries could always accept retaliation from other Member's injured by their non-compliance with WTO rulings. For example, when the WTO ruled that the European Union EU should remove its prohibition on imports of beef produced using growth hormones brought by the US and Canada, the EU chose to accept retaliation rather than to open its markets (Kerr and Hobbs, 2005). Arguably, this issue brought forth such

strong emotions among consumers in the EU that withdrawal would have been seriously considered if accepting retaliation had not been an alternative to compliance (Kerr and Hobbs, 2002). In some cases, Members fail to bring cases to the dispute settlement institution of the WTO if it would put a Member into a situation that would force it to consider withdrawal rather than accepting retaliation. It could be argued that the failure of the US, and other countries, to bring a formal case against the EU for its import ban on products produced using genetic modification where the costs associated with retaliation would have been very large is an example (Issac and Kerr, 2003; Viju et al., 2012; Smyth et al. 2017). If no one brings a case, a country can have any form of trade policy it desires – the WTO does not act unilaterally as trade police force.

Further, many protectionist issues are time sensitive so that with the passage of time their urgency passes. Nothing moves rapidly at the WTO. It takes time to initiate a complaint, build a case to bring to the dispute mechanism, appeal a Panel ruling, and come into compliance. Cases can be withdrawn when their urgency passes. Hence, no country really fears the WTO. In effect, all compliance is voluntary. This may frustrate those who want increased transparency and certainty from the WTO but that is the cost of keeping the organizations membership desirable.

Conclusion

Even the WTO's greatest detractors recognize that there are benefits from belonging to the organization (Watkins, 2001). They feel the costs, however, exceed the benefits of membership. That is clearly not the view of the 166 governments of the Member States. Countries such as China, for example, are very cognizant of the benefits of the rules-based system having suffered from the capriciousness of the US Congress' trade actions when it was a non-member (Kerr and Hobbs, 2001). Even with the trade actions of the administrations of President Trump, which were largely retained and expanded under President Biden, it has no thought of leaving the rules-based international trade systems. Most of the time countries appreciate having rules-based trade. It is only when protectionist lobbying becomes difficult to ignore or industrial policy is considered vital (Kerr, 2023) that the rules are flaunted. The rules can, however, be easily circumvented through ossification, choosing to accept retaliation or exploiting opportunities for delay. There is no necessity to withdraw from the organization. Thus, it is probably not surprising that over the entire lifespan of the GATT/WTO that only four countries have withdrawn from the organization.

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Endnotes

¹ I could find no discussion of why Liberia withdrew from the GATT. It is important to note that two of the four countries that withdrew from the GATT eventually joined the World Trade Organization (WTO). The Republic of China eventually was able to join the WTO. It was contentious whether it could re-activate its membership or had to apply again. It was decided it should be the latter along with an arrangement with the Peoples Republic of China allowing it to be represented separately from China as Chinese Taipei (Winkler, 1013; Ya, 1993).

Liberia joined the WTO in 2016. Lebanon and Syria both have observer status at the WTO.

² Article XVIII, paragraph 12 deals with withdrawing from the GATT Agreement when the actions of another GATT member is injuring the complaining member and found to be in violation of GATT obligations but subsequently not withdrawing them, the complaining member may withdraw from the GATT to prevent further damage to its *program and policy of economic development*. Meeting this requirement is not necessary for withdrawal under Article XXXI.

³ Article XXIII deals with nullification or impairment of expected benefits from being part of the GATT. If a Member is deemed to be suffering from nullification or impairment and this state cannot be rectified, the adversely affected Member can withdraw from the GATT. Meeting this requirement is not necessary for withdrawal under Article XXXI. Article XXX deals with amending the GATT Agreement. An amendment passes with a two thirds vote of the members. If a country does not accept the amendment.:

“The CONTRACTING PARTIES may decide that any amendment made effective under this Article is of such a nature that any contracting party which has not accepted it within a period specified by the CONTRACTING PARTIES shall be free to withdraw from this Agreement, or to remain a contracting party with the consent of the CONTRACTING PARTIES (Article XXX (2).”

Meeting this is not necessary for withdrawal under Article XXXI.

⁴ It is interesting to note that it is the Secretary-General of the United Nations that must be informed of the withdrawal, not the GATT Secretariate or the Contracting Parties. This reflects the view of the GATT's negotiators regarding the relationship between the "temporary" GATT and the United Nations.

⁵ Note that it is now the Director-General of the WTO that must be notified reflecting the place on the international hierarchy of organizations of the WTO relative to the "temporary" GATT agreement. A discussion of the relative international status of the GATT and WTO can be found in Demaret (1995).

⁶ Barry Coates was the director of the WTO watchdog organization the World Development Movement.