IMPACT OF GLOBALIZATION ON TRADE LAW

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Abstract

A notable feature of the world economy is growing globalization which is being accelerated by revolution in information and communication technologies, with vast volumes of information being transmitted and received at great speed across great distances. Many of the boundaries between national and financial markets have dissolved and a truly global market is emerging, driven by innovation, technology and deregulation. Increasingly, therefore, national boundaries, customs and practices are becoming less relevant to business decisions as investment flows and production facilities move in search of the highest possible returns. Countries have responded to this change by structural transformation of their economies and putting in place efficient and strengthened systems responsive to market signals.¹

International trade has during the whole of the twentieth century shown an impressive growth; seriously interrupted only by the two World Wars has shown a particularly strong tendency, experiencing only three or four minor and temporary set backs, although the period after 1973 has shown a distinctly lower growth rate than the 25 preceding years. Nevertheless, except for the war and depression years mentioned above, international trade has grown faster than world output and thus has contributed to a steadily increasing integration of the world economy. Developing countries as a group have also participated in expansion of world trade and have kept an almost surprisingly stable share of world exports, staying mainly inside the 20 to 30 per cent range of total world exports. During recent years, an impressive take-off in manufactured goods, which today account for more than half of the exports from developing countries, has changed the traditional pattern, when exports form developing countries consisted mainly of primary goods.

International trade is integral to the process of globalization. Over many years,
governments in most countries have increasingly opened their economies to international trade, whether through the multilateral trading system, increased regional cooperation or as part of domestic reform programs. Trade and globalization more generally have brought enormous benefits to many countries and citizens. Trade has allowed nations to benefit from specialization and economies to produce at a more efficient scale. It has raised productivity, supported the spread of knowledge and new technologies, and enriched the range of choices available to consumers. In response to the global trend, India has steadily opened up its economy.

Till the early 1990s, India was a closed economy: average tariffs exceeded 20 per cent, quantitative restrictions on imports were extensive, and there were stringent restrictions on foreign investment. The country began to cautiously reform in the 1990s, liberalizing only under conditions of extreme necessity. Since that time, trade reforms have produced remarkable results. India’s trade to GDP ratio has increased from 15 per cent to 35 per cent of GDP between 1990 and 2005, and the economy is now among the fastest growing in the world.

Globalization has resulted in greater interconnectedness among markets around the world and increased communication and awareness of business opportunities in the far corners of the globe. More investors can access new investment opportunities and study new markets at a greater distance than before. Potential risks and profit opportunities are within easier reach thanks to improved communications technology.

Products and services previously available within one country are made available to new markets outside the country due to globalization. In addition, countries with positive relations between them are able to increasingly unify their economies through increased investment and trade.²

**Maintaining Competitiveness**

Globalization has had the effect of increased competition. Companies are broadening their target area, expanding from local areas and home countries to the rest of the world. Suddenly, some companies are fighting strong competition from outside their home country. This forced them to source materials and outsource labor from other countries. This story of ‘sourcing and outsourcing’ turned many companies into global ones, actively seeking for production locations and partners for new ventures. Globalization has facilitated this and made the transition to global markets easier.

**Technology and Efficiency**

More advanced systems are needed to facilitate global trade. Globalization pushed us to create better systems to track international trade. ERP systems are one of the solutions provided to support global trade.³

Enterprise resource planning (ERP) is a process by which a company (often a manufacturer) manages and integrates the important parts of its business. An ERP management information system integrates areas such as planning, purchasing, inventory, sales, marketing, finance and human resources.

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² [https://medium.com/@ModulTrade/effect-of-globalization-on-international-trade-2bcc873dd121](https://medium.com/@ModulTrade/effect-of-globalization-on-international-trade-2bcc873dd121)

This technological innovation in global trade has enabled a more efficient environment. Technology empowers efficiency in global trade and reduces cost and time. In addition, production processes became more efficient due to globalization as companies want to maintain their competitive advantage.

However, we still find a gap between globalization and blockchain. Blockchain could help companies become even more ‘global’. It helps companies to save time and money, storing data tamper-proof and improving communication.

Companies could use smart contracts in which they can define their business rules. These smart contracts can be used when trading with other companies, creating an environment of trust. Modul Trade provides such a platform where companies can trade safely using smart contracts acting as an escrow, including all business criteria.

Importance, nature and scope of the study

Curiosity, wants, needs, jealousy etc. are human traits which exist now and have existed ever since these words were unknown to mankind. It is this human nature or requirements that inspired him to think beyond what he had in his hands. When a person saw something which he did not have but another had he had the urge to acquire it, the same phenomenon occurred in the mind of the opposite person and this led to the birth of something which we call today as TRADE.4

Trade and International Trade:

With the evaluation of mankind, human entered into the transaction/relationship called trade to make his life more meaningful, as it was not possible for any individual to own everything under the sun. Initially as shown above trade was limited to exchange of one thing for the other. People started to trade in things which they had extra with the things which they required and this developed a system of trading called the Barter System of Trade which remained in vogue for a considerable period of time. This is probably the root of the well developed system of trade that we see today.

With different ages and passage of time the relationship called trade acquired new dimension and went beyond simple exchange of goods and entered into new and different era of buying and selling. Almost anything could be traded and this started the process of wealth creation. States also started to regulate, interfere or help in trade as the importance of trade was understood by the rulers.5

Trade can be said to represent a transaction between two or more persons wherein the concerned parties enter into the relationship voluntarily believing that the proposed transaction is beneficial to them. This represents a win - win situation for the parties to the specific transaction, resulting in apparent gain and satisfaction for the concerned parties. If this above mentioned understanding is applied to numerous such transactions than we arrive at a trading system, which forms a major proportion of the economy to which it belongs. This results in gain and satisfaction for all the traders of

that concerned economy. Thus it can be seen that better the trading system of an economy better are the prospects of the traders being prosperous and happy. This shows us the importance of Trade in any era or State.

**Globalisation and its Impact on International Trade:**

Globalisation is the buzzword today. Every person in today’s world is talking about Globalisation; and why not, International Trade is blossoming as never before. Globalisation and International Trade go hand in hand and these two factors complement the growth of each other. India is slowly but steadily going on the path of development and today it is felt that our Nation will become one of the economic Superpowers of the world in time to come. The ever-expanding Corporate World of India has provided the impetus towards growth in all directions. The Information Technology industry, along with Pharma and other manufacturing companies are the true heroes of present corporate India. This has a lot to do with Globalisation, Corporate India has started looking competitive and a possible economic superpower of the world in the years to come, behind this, once again Globalisation is considered as an important phenomenon.

We need to first of all understand this phenomenon / concept called Globalisation so as to understand its impact on International Trade and how the two complement each other.  

In order to understand this phenomenon of Globalisation and International Trade we need to examine the events since ages and understand the development of Globalisation and International Trade and the principles and provisions of law (if any) that applied to such concepts in the distant past. The effort in this study shall be to search the origin of Globalisation as such, i.e. how it started and its implications on trade more particularly on international trade and the legal issues involved in it. This can provide an understanding as to how and in what manner the International Trade was carried out in different era in the past and how and which law was applied. Along with the development of trade and international trade, the disputes shall also arise. Any study related to trade shall not be completed without analyzing the disputes resolution mechanism. The different sets of rules which apply to different aspects of International Trade and the dispute resolution mechanism in the days as compared with the existing dispute resolution mechanism must be analyzed.

**The Future of International Trade**

The biggest impact of globalisation on International Trade can be felt on the emergence of Free Trade Zones being set up for promoting such trade. We analyze the concept of Free Trade Zones, what it means, its advantages and dis advantages vis a vis the normal system of trading. This study also analyses the impact of globalisation on labour and environment in this study.

The other aspect of development of International Trade is the “costs” on the consumer as well as the manufacturers. Certain nations provide a tax structure, which is very conducive for the development of business. The cost of manufacturing goes pretty low in such countries as compared to

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other countries. At times the difference between the cost of production and the final cost at which the product reaches the consumer is very high. How tariffs act as barriers in development of trade and how globalisation and international trade flourish under a regime of non-trade barriers.

**Governance and Regulation of Trade**

The system of trade from the Indus Valley Civilization days till modern day systems has been analyzed in detail along with the governing legislations or bodies in such different times. In order to have a set of rules and provisions governing such Inter-country trade, agreements would be created which would deal with different possible situations and the solutions in any such case, dispute resolution etc. Such Inter-country agreements for trade, in a way, bilateral agreements were used to settle disputes arising in the trade.

Coming to today’s world, dispute resolution in cases of International Trade and also International Trade as such is governed and controlled by International Commercial Arbitration under UNCITRAL (United Nations Commission on International Trade Law). The provisions of UNCITRAL need to be studied in depth and compared with the other related provisions of different countries. There are various bilateral and multilateral treaties and agreements governing trade between a set of countries, the provisions of some such treaties also need to be examined, so that one good set of provisions governing International Trade can be created.

There are numerous conventions, agreements, treaties and other provisions governing International Trade including those, which impose certain restrictions on different classes of transactions in different manner. Different countries use customs, tariffs, licenses etc. for governing the imports as compared to exports. This in effect can be seen as a limiting factor to the concept of Trade without barriers. This study also tries to examine the effect of such restrictions on Free International Trade.

**Dispute Resolution Mechanism:**

A special focus is needed to study the dispute resolution mechanism in the event of a transaction of International Trade. International Commercial Arbitration under the UNCITRAL is analyzed in detail in this study. The scope of this study is limited to a legal perspective of the impact of globalisation on international trade and the other aspects have not been considered in depth.

**Objectives of the Study**

Today the world has become a small place to live in and business or trade has acquired a different and very vast meaning than the limited meaning that it had in the past. Today trade encompasses almost every aspect of our lives and has its impact on everything that we do. One, therefore needs to examine “Trade” in depth and this study is an effort to perform this as one of the objectives.

Trade has now become global and International Trade has now come in vogue, nowadays people are not happy or satisfied with domestic trade, import - export i.e.

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7 Official Website of Government of India, Ministry of Commerce and Industry Department of Commerce Economic Division, New Delhi.

8 World Economic Outlook, International Monetary Fund, October 2008.
International Trade is of a much greater aspiration.

This study is based on the belief that Globalisation being the ‘in thing’ today, any person, especially a professional in the legal field must be aware of its impacts on trade in general and especially International Trade. In today’s world the word ‘Trade’ must be construed as having an International effect and therefore this study is based on the impact of Globalisation on International Trade.

The world is getting a smaller and smaller planet now and looking to the speed at which distances are in effect lessening and International Trade is increasing by the minute, it is highly desired to examine the effects of Globalisation on such trade. One needs to understand whether there are only positive effects of Globalisation on International Trade or there are certain negatives as well.

In order to simply keep up with the trend today i.e. of everything getting global wherein trade, activities etc. are not bound by national boundaries anymore, it is highly desirable that the legislations affecting International Trade are understood in detail. One must be aware of the cause and effect of each and every provision is any given situation and whether any International Law affects the same or any National Law can / shall apply. Under given circumstances in case of a dispute which law shall apply and what shall be the effect on the transaction. How the dispute may be settled or how the decision on the same may be carried out. What is the difference between the prevailing legislation on a certain point in a particular circumstance between two different countries and whether there is a uniformly applicable law on the same. These are some of the questions, which need to be answered and the same is going to be the endeavor of this study.

This study shall help us in understanding the various provisions of the UNCITRAL and its effect on any particular event. The major part and thrust of this study shall be on the provisions of the UNCITRAL as it is considered as the mother of all International Trade Laws and many countries have and are accepting the same and incorporating the provisions of the UNCITRAL in their own Legislations.

The International Trade scenario of various blocks of countries or countries shall be compared with the Indian scenario and the endeavor shall be to find the negatives as well as positives of each system.

**Rationale of the Study**

Inter-country trade in the past was done without much confusing laws or regulations and without much of confusion, but then there were very less complications to contend with. Today the system of International Trade has become much more complicated and therefore many rules, regulations etc. have been inculcated in the whole system. The system as of today needs to be full proof so as to minimize the risks associated with International Trade.

In effect Globalisation itself is a phenomenon which is positive as well as negative so long as its effects on International Trade are concerned. Along with the advent of technology, a number of tech related crimes have come up which need to be curtailed. Over and above this, there are number of different aspects which make us believe that today there is the need of a system wherein there is minimal chance of disputes and also
a legislation, which tries to take care of as many possibilities as possible for dispute resolution. Plus there is also a need to have a suitable and practical manner of implementing and enforcing the provisions of such a Legislation.

This study persuades us to become aware of the International Trade practices, laws applicable to it and other related aspects. It also brings to our knowledge, how people in the past used to trade with each other especially inter-country trade and how the same was regulated. The past needs to be compared with the present and also the different systems of the present era need to be compared to arrive at some practical, effective and suitable system which can ward of the problems as above associated with International Trade.

This study explores in detail the present law related with International Trade i.e. UNCITRAL, it compares the provisions of the same with the provisions existing in some other systems and the endeavor is to try and find out some better system acceptable to majority of the countries, such that it does not favour any country or a block of countries. An effort has been made in this study to bring to the knowledge of others the various aspects of Globalisation, its impacts on International Trade, how and in what manner it impacts the trade, the provisions governing International Trade and the dispute resolution mechanism.

Hypotheses

This study analyses the impact of Globalisation on International Trade. An in-depth meaning of the term Globalisation itself shall be considered. International Trade, now being a normal and day-to-day thing in everybody’s life, needs to be thought of seriously and the provisions affecting the same need to be understood correctly. Following important hypotheses have been formulated to conduct the study bearing in mind that the variables involved in this study have huge impact on the world at large.

- Trade, including international trade, is the essence of any economy and forms the basis of almost all political as well as economic and legal decisions, International Trade, now being a normal and day-to-day thing in everybody’s life, needs to be thought of seriously and the provisions affecting the same need to be analyzed in depth
- Globalisation is a very important aspect in life today having immense impact on our day-to-day life and of any country as a whole, this study is based on the belief that Globalisation being the ‘in thing’ today, especially a professional in the legal field must be aware of the impacts it has on Trade. Today the word ‘Trade’ must be construed and believed to include and mean International Trade. Therefore Globalisation needs to be analyzed in the light of International Trade
- The impact of Globalisation on International Trade needs to be worked upon at length Tariffs, Trade Barriers etc. in a Globalised world; whether such measures for the good of a country or not
- Disputes are a part and parcel of any commercial transaction and there are laws in force to settle such disputes, but the disputes arising in an International Trade transaction have to be settled in a special manner and wherein legislations of two or more different countries are involved, in such a scenario the regulations or laws which apply
- Provisions enshrined by and under the UNCITRAL, internationally the most
accepted regulatory body for the regulation of International Trade are very exhaustive but still there is a scope for improvement

- Dispute Resolution Mechanism under the UNCITRAL though preferred by most nations is not absolutely concrete
- An ideal, suitable and model system for international trade in the globalised world today is of utmost requirement in order to make International Trade a happy and benefiting experience.

Research Question

- What are the impact of globalization on trade?
- How has globalization impacted law?
- How does globalization affect international law?

Methodology Adopted

As this study is related to International Trade and the legal field, a purely doctrinal method has been adopted. The relevant information is collected from various statutory enactments, rules published there under and rules evolved by the Judiciary from time to time in specific cases. The relevant material is collected from primary and secondary sources. Material and information are also collected from both legal and financial sources like published works, national and international journals, papers presented at various seminars, original judgments of various national and international courts and websites on relevant topics. A comparative analysis is made of various enactments related to International Trade and also the system prevalent in various countries for the International Trade.

LITERATURE REVIEW

Kim and Hangshin (2002) investigated the consequences of globalization and regionalization on world economy. They used longitudinal data on international commodity trade using the social network approach in their study. The result of their study presented that the world became increasingly globalized between 1959 and 1996 and countries joined trade partnerships in this period further that the previous periods. As a result the world trade network became closer. On the other hand another finding of the study presented that all countries weren’t integrated into the world economy equally. While developed and developing countries integrated to each other more and more the less developed one stayed behind of the process.

In their study Sriram and Bilgin (2002) investigated foreign trade flows between Turkey-BSEC and Turkey-EU covering the 1991-2001 periods. Their study presents that although fluctuations occurs in general Turkey’s both imports and exports towards BSEC is in a rising trend while the volume of trade with EU is more constant.

Mukherjee (2008) investigated the impact of globalization on international trade taking historical perspectives of global economic integration into consideration. The study


presents that the trend is towards free trade among all over the world, driven primarily by international trade which is an outcome of competitive liberalization. In this framework globalization plays an important role in enhancing cross-border trades by reducing or removing international trade barriers.

Karagoz Kadir and Karagoz Murat (2009) studied how the gravitational factors affected bilateral trade in BSEC covering a period of 16 years. The study they conducted using panel gravity model introduced that economic size and population of the importer countries have a positive impact on trade volume, where as the distance between them works on the opposite way.

Akram Ch. et. al (2011) investigated the impact of globalization on the world using the international trade, FDI and economic development data. The study they conducted particularly focused on the impact of the globalization process on the fastest growing industries of world. The results of the study showed that while USA was dominant in world export before the globalization process is dense Germany, Japan, South Korea and China have seriously challenged the position of USA in the following period. Regarding the studies covered in this section it can be concluded that the impact of globalization on world economy is dealt within the framework of particularly international trade from various aspects and this study provides a different perspective of the subject.

FIDH advocates for the respect of human rights obligations in trade and investment agreements. It strives for human-rights impact assessments (HRIAs) to be conducted before and after such agreements are signed. FIDH advocates for balancing investors’ rights with investors’ obligations and stands firmly against Investor-State Dispute Settlement (ISDS). FIDH calls for complaint mechanisms which can guarantee the protection, respect and promotion of human rights. FIDH insists on the need to integrate a human rights-based approach in development policies and within international financial institutions and promotes respect for human rights and the environment in investment, including through its ethical investment fund Liberté et Solidarité.

Reflections on globalization and its impact on the law of international business

The term globalization did not become popular until the 20th century. Then onwards, it has become a typical issue understood to affect the whole socioeconomic and political life of states throughout the world. Besides, the discourse on globalization is complex with far-reaching effects on national and international laws and policies pertaining to the social, economic and political matters. It is commonsense knowledge that issues related to globalization are open to debates, as various people have varying perceptions about it. At one extreme,

14 Globalization and Its Impacts, www.ilo.org
we have those who see globalization as an irresistible and benign force for delivering economic prosperity in economically underdeveloped areas. On other extreme, we have those who blame it as a source of all contemporary ills. Those people taking the latter line of argument emphasis on the negative impacts of globalization from various dimensions. Specially, they make frequent reference to the difficulties faced by small enterprises in underdeveloped areas in taking advantage of the benefits of globalization. As the result, the rural and informal economies remain on the margin, which in turn leads to persistent poverty. Besides, the industrial restructuring in force of competitive markets is highly probable to insecure jobs and dramatically affects the working conditions and rights of workers in some countries. In most developing countries, globalization has undermined traditional livelihoods, changed the traditional social security systems and increased rural-urban and intraregional inequalities. Moreover, some multi-national investment have been exacerbating environmental degradation and generated pressures for cheaper and more flexible labor in order to retain competitiveness which in effect could erode the values of democracy and social justice. In relation to this, the accountability of these institutions engaged in business is debatable. In reality, some people feel that transnational bodies are unaccountable which usually disregard the local perspectives of cultural, linguistic, and other diversities.15

The other extreme argument is on the positive impact of globalization.16 To this effect, it is widely accepted that the key characteristics of globalization have been the liberalization of international trade, the expansion of FDI, and the emergence of massive cross-border financial flows. This resulted in increased competition in global markets. It is also widely acknowledged that this has become about through the combined effect of different understanding factors mainly policy decisions, to reduce national barriers to international economic transactions and the impact of new technology. Due to the effect of the latter, the natural barriers of time and space have been vastly reduced. At present, the cost of moving information, people, goods and capitals across the gloop has fallen dramatically which in turn vastly expanded the feasibility of economic transactions across the world. As to this, people believe that markets can be global in scope and encompass an expanding range of goods and services.17

With the intention to benefit international communities on equal footing, various institutions were created. Among others, UN, ILO, WTO, GATT and IMF are the most influential ones. These institutions set certain preconditions that states shall fulfill to get membership. Beyond that, a number of laws are issued to liberalize international business transactions. By this, it is sought that regional cooperation in trade and finance could increase stability. As it is mentioned above, globalization can have both direct and indirect impact on states. It would also inevitably affect the laws of international business transactions either negatively or positively. As to the former, the challenges against globalization may dictate the revision

15 Thomas L. Friedman, The World is Flat, a Brief History of the Globalized World in the Twenty-First Century, Allen Lane, 2005
16 The African Economist. Vol.11, No. 35.2005
17 The Eye on Ethiopia and the Horn of Africa, Vol. xxxv, No. 128, 2006
of these laws in a manner which may equally benefit the poor and the rich. The question that must be capitalized is whether these laws are in positions to treat the north and the south as there is unbridgeable gap between them. If states are to be benefited from the globalization, most argue that there must be fair laws which consider the local realities in developing countries.18

CONCLUSION & SUGGESTION

International trade is integral to the process of globalization. Over many years, governments in most countries have increasingly opened their economies to international trade, whether through the multilateral trading system, increased regional cooperation or as part of domestic reform programs. Trade and globalization more generally have brought enormous benefits to many countries and citizens. Trade has allowed nations to benefit from specialization and economies to produce at a more efficient scale. World exports of goods and services doubled between 1995 and 2006 to reach over US$14 trillion in 2006. Since 1995, world merchandise trade has been growing at an annual average rate of 7.5 per cent. Since 2000, it has accelerated further to an average of 13 per cent. In the period 2000-2006, developing countries average export growth was about 15.9 per cent, while that of developed countries and countries with economies in transition was 11 per cent and 21.3 per cent respectively. World merchandise trade value has increased by 130 per cent while that of developing countries by 190 per cent. During the last two decades, the shares of the dynamically growing economies in international merchandise and services trade have grown considerably. Seven countries in particular have contributed immensely to this trend: Brazil, India, China, Mexico, the Russian Federation, South Africa, and South Korea. The share of merchandise exports of these countries in global exports increased from 10.6 per cent in 1995 to 17.2 per cent in 2005. The overall trade performance of developing countries is very telling. During 1995 to 2005, the share of developing countries in world trade saw a three-fold increase, reaching an impressive US$ 3.7 trillion. It accounted for 36 per cent of total merchandise exports – an all-time record. The study concludes that after globalization of 1991 the percentage increase in exports is more than the percentage increase in imports. During 1990-91 to 2000-01 the percentage increase in imports increased by 108 per cent and exports increased by 143.09 per cent during this period.

India’s negative trade balance was 32.6 per cent of total exports in 1990-91 which decreased up to 13.63 per cent in 2000-01. During 1990-91 to 2000-01 India’s exports recorded a compound annual growth rate of 7.6 per cent and imports recorded 9.2 per cent. Whereas, during 2000-01 to 2009-10 Compound annual growth rate of exports 14.5 per cent and imports recorded 10.4 per cent during the same period. India’s foreign exchange reserve has grown significantly since 1991. The reserves which stood at US $ 5.8 billion at end of March 1991 increased gradually to US $ 25.2 billion by end March 1995. The growth continued in the second half of the 1990’s with the reserve touching the level of US $ 42.2 billion by end March

18 Kim Kercher, Corporate Social Responsibility- Impact of Globalization and International Business, Bond University.2006
2001 recording a compound growth rate of 21.9 per cent. During globalization period foreign currency assets recorded maximum 33.5 per cent compound annual growth rate than other components of foreign exchange reserves. It observed from the study that the share of food grains and capital goods in total imports decreased and share of raw materials increased during the globalization period. During 1991-2001 the total imports of principal goods recorded a compound annual growth rate of 7.7 per cent; it was 25.8 per cent during 2001-2008.

BIBLIOGRAPHY


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