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Evaluation of the Comprehensiveness and Efficiency of the Legal System of the World Trade Organization in Energy Trade Management with an Emphasis on Oil and Gas

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The World Trade Organization (WTO), as a fundamental international institution, plays a pivotal role in managing energy trade by facilitating and regulating global trade laws. Through the formulation of legal and regulatory frameworks, this organization aims to establish equal and fair conditions for all member states and to support free energy trade, particularly in the oil and gas sectors. The present study, conducted using a descriptive-analytical method, examines the subject of "Evaluation of the Comprehensiveness and Efficiency of the Legal System of the World Trade Organization in Energy Trade Management with an Emphasis on Oil and Gas." The findings of the study indicate that, on the one hand, the WTO faces challenges due to discrepancies in the national laws of different countries and non-tariff trade barriers, which can lead to inconsistencies in the implementation of free trade principles. On the other hand, environmental issues and climate change policies also affect the organization's efficiency, as countries may enact regulations for environmental purposes that indirectly restrict energy trade. Additionally, international interactions and cooperation with regional entities such as the European Union and the Organization of the Petroleum Exporting Countries (OPEC) create challenges in decision-making and the interpretation of regulations, potentially exacerbating tensions between energy-producing and consuming nations. Ultimately, to enhance the efficiency of the WTO in this domain, there is a need for continuous revision of existing rules and mechanisms, as well as the establishment of effective synergy among member states. Such measures would enable the organization to effectively address the complex and diverse challenges in energy trade.

Keywords: *World Trade Organization, energy trade management, oil, gas*

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1. Introduction

Energy carriers, particularly oil and gas, play a fundamental and decisive role in global trade, economic development, and the political and social stability and security of nations. The undeniable and exceptional position of oil, along with its various products and derivatives, has enabled it to command a significant share of the global trade market. However, despite oil and gas being essential commodities, they have never been seriously addressed within the most influential international trade organization—the World Trade Organization (WTO). The legal framework of the WTO, as one of the primary pillars of international trade regulation, currently faces serious challenges in managing energy trade, particularly in the oil and gas sector. While the WTO facilitates international trade interactions, it also encounters numerous legislative and economic challenges.

Fundamental deficiencies in the existing legal framework, such as the absence of comprehensive and dedicated agreements for energy trade management, contribute to inconsistencies in law enforcement and the creation of trade barriers among different countries. Additionally, the WTO's interactions with other regional and international entities, such as the Organization of the Petroleum Exporting Countries (OPEC) and economic unions, are influenced by national interests and political considerations, making global trade relations more complex and challenging. In this regard, assessing the comprehensiveness and efficiency of the WTO's legal system in managing energy trade, particularly in the oil and gas sectors, requires a critical examination of the balance between national interests and the capability of existing mechanisms to address global trade challenges.

2. The Core Agreements of the World Trade Organization

By 1995, representatives of the General Agreement on Tariffs and Trade (GATT) member states had conducted seven rounds of negotiations: Geneva in 1947, Annecy in 1949, Torquay in 1951, Geneva in 1956, the Dillon Round in 1960, the Kennedy Round from 1964 to 1967, and the Tokyo Round from 1973 to 1979, collectively known as the Multilateral Trade Negotiations (MTN). In September 1986, the decision was made to commence the eighth round, culminating in the Uruguay Round negotiations in 1994. A defining characteristic of the previous seven rounds was the significant reduction in tariffs among member countries. During the Uruguay Round, numerous documents and agreements were drafted and ratified, ultimately forming four annexes to the Agreement Establishing the World Trade Organization (WTO, 1995, 1, 12).

The key components of these agreements include the amended GATT 1994 and other related agreements on trade in goods, trade in services, investment measures, and intellectual property rights. The WTO agreements are generally formalized in written form and cover all aspects of trade, ranging from industrial and agricultural goods to services and various aspects of intellectual property rights (Rezaei, 2015, 37).

The General Agreement on Trade in Services (GATS)

Regarding the General Agreement on Trade in Services (GATS), its preamble emphasizes that member states, recognizing the role of service trade in global economic growth and development, have established a multilateral framework of principles and rules for trade in services. The objective of this agreement is to expand trade in services under transparent conditions with progressive liberalization, serving as a mechanism for promoting economic growth among all trading partners and facilitating greater participation of developing countries in service trade.

The services covered by this agreement include:

A. Services related to capital and labor (including professional and computer services)

B. Communication services (telecommunication services)

C. Distribution services

D. Construction and engineering services

E. Educational services

F. Environmental services

G. Financial services (including insurance and banking)

H. Healthcare services

I. Tourism and travel-related services

J. Recreational, cultural, and sports services

K. Transport services (land, air, and maritime) and port and international shipping facilities

L. Audiovisual services and human resources (General Agreement on Trade in Services, 1994, 1, 3).

2.1. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)

Intellectual property rights pertain to intellectual and creative innovations across various scientific, literary, industrial, and artistic fields. These rights encompass copyright, authors' rights, and rights related to areas such as patents, inventions, trademarks, industrial designs, and trade secrets, collectively referred to as industrial property rights. Examples of these rights include written and visual works, audiovisual content, scientific, fictional, and poetic works, handicrafts, maps, designs, architectural works, satellite broadcasts, and computer programs and software. These rights also extend to producers and performers, as well as reproduction and distribution rights (Nikbakht, n.d., 87). Given the significance of intellectual property and its commercial exchange in international trade, several international agreements and treaties have been established to protect the rights of creators and owners of intellectual property. Among the most notable treaties are the 1883 Paris Convention for the Protection of Industrial Property and the 1886 Berne Convention for the Protection of Literary and Artistic Works. The importance of these agreements ultimately led to the establishment of a comprehensive treaty, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Membership in the WTO requires acceptance and implementation of this agreement, which includes the following rights:

A. Copyright and related rights
B. Exclusive rights and patent registration
C. Trademarks
D. Industrial designs
E. Layout designs of integrated circuits
F. Protection of confidential information
G. Geographical indications
H. Control of anti-competitive practices in contractual licensing (WTO, 1994, 9).

3. Fundamental Principles of the World Trade Organization

3.1. The Principle of Transparency

Contrary to common belief, GATT prioritizes transparency in the trade systems of member states before enforcing trade liberalization. This is because, first, reducing trade barriers is only feasible if these barriers are clearly identified, and second, traders are more concerned about the unpredictability of trade restrictions than their actual severity. GATT ensures this principle of transparency through two primary commitments:

A. Allowing domestic industries and enterprises to be protected only through tariffs, which are considered the most explicit protective measures (Articles 2 and 11 of GATT).

B. Ensuring transparency in trade laws, regulations, judicial rulings, and administrative orders related to trade, including taxation systems, by mandating the publication of such information (Article 10, Paragraph 1 of GATT) (Ibid).

3.2. The Principle of Stability and Predictability in Trade Conditions

The second prerequisite for increasing trade is to provide certainty for trading partners regarding the stability of existing conditions and to notify them in advance of any necessary changes. GATT upholds this principle through the following commitments:

A. The stabilization of tariffs, ensuring that tariff increases beyond the established ceiling are prohibited except under specific circumstances (Article 2 of GATT).

B. The prohibition of non-tariff trade barriers, except under special conditions and with prior notification (Article 11 of GATT) (Mousavi Zanouzi, 2013, 48).

3.3. The Principle of Non-Discrimination

Many scholars consider non-discrimination to be the most fundamental principle in overseeing multilateral trade, as it ensures that members have confidence in receiving non-discriminatory treatment from other members. GATT guarantees this principle through four commitments, with the first two being of particular importance:

A. The Most-Favored-Nation (MFN) Rule, which prohibits WTO members from discriminating between other members in their trade relations. This means that each member must treat all other members as favorably as it treats its best trade partners (Article 1 of GATT). As a result, all WTO members equally benefit from the most favorable trade conditions established within the trading systems of other members, whether in terms of tariff systems or other trade regulations. The primary exceptions to this rule include the allowance of regional trade arrangements (under Article 24 of GATT) and the granting of preferential treatment to developing countries (based on the 1979 Enabling Clause) (Ranjbar, 2020, 1, 150).

B. The National Treatment Principle, which complements the MFN rule, stipulates that WTO members must treat imported goods, upon entering their domestic market and after customs duties and other charges are paid, in the same manner as domestic goods, without imposing more unfavorable treatment (Article 3 of GATT). This principle effectively places imported goods from trade partners on an equal footing with domestically produced goods.

C. The commitment to impartial enforcement of all trade-related laws and regulations, judicial rulings, and administrative orders (Clause "A," Paragraph 3, Article 10).

D. The commitment to applying quantitative restrictions in a non-discriminatory manner in cases where WTO members are compelled to impose such restrictions, despite existing prohibitions (Article 13 of GATT) (Ibid, 1, 130).

3.4. Continuous Efforts Toward Trade Liberalization

While all previous principles contribute to facilitating trade, they do not guarantee trade liberalization, which involves reducing trade barriers. Achieving this goal requires adherence to the following two commitments:

A. The commitment to tariff reduction through negotiation rounds, leading to the exchange of tariff concessions based on the principles of reciprocity and mutual benefit (Article 28 of GATT). New countries seeking WTO membership must also negotiate tariff reductions as part of their accession process.

B. The commitment to prohibiting other forms of protectionism, including duties or regulations related to purchasing, selling, transporting, and distributing goods. These include customs valuation methods, import and export fees or procedures, and requirements for country-of-origin labeling (provisions in Part II of GATT, including Articles 4 to 19) (Bagheri, 2021, 2, 150).

3.5. Fair Trade

This final principle serves as a guarantee for the effectiveness and efficiency of the measures implemented under the four preceding principles. Firstly, by prohibiting member states from adopting unfair trade practices such as granting export subsidies, it ensures a competitive environment based on fair practices. Secondly, by permitting fair methods to protect the fundamental interests of member states, it reassures them that participation in the multilateral trading system does not mean the complete loss of protective mechanisms. This principle operates through the following mechanisms:

A. The prohibition of unfair trade practices, which generally involve actions based on unjust programs designed to distort markets and harm trade partners' interests. Such practices artificially enhance the competitiveness of certain goods that benefit from unfair support. Unfair trade practices may involve government intervention, particularly in the form of subsidies.

B. Governments can provide subsidies to commercial enterprises, reducing their production or sales costs, thereby increasing their competitive strength. However, GATT requires member states to refrain from granting such subsidies and allows affected members to take countermeasures. Furthermore, price dumping—another form of unfair trade practice in which businesses sell products below normal market prices to eliminate competition—is also addressed. GATT permits WTO members to take corrective actions against dumping (Articles 16 and 6 of GATT) (Ghasemi, 2019, 1, 190).

C. The authorization of fair methods to protect economic, social, cultural, political, and security interests. The concept of fair trade implies that governments should have the right to implement extraordinary measures, in addition to tariff regimes established through tariff negotiations, to provide necessary protections when required. These include safeguard measures to prevent or compensate for damage to domestic industries, protective actions in response to balance-of-payments crises, and justified deviations from GATT commitments for specific economic, social, cultural, political, and security reasons. Various GATT provisions, including Articles 12, 18, 19, 20, and 21, embody the principle of fair trade from this perspective (Amiri, 2021, 2, 120).

4. Legal Instruments, Requirements, and Mechanisms of the World Trade Organization in Managing Oil and Gas Trade

The legal framework of the World Trade Organization (WTO) includes a set of legal instruments and requirements designed to ensure efficiency and comprehensiveness in managing oil and gas trade. These mechanisms, established through WTO agreements and principles, facilitate trade processes. Relevant instruments include the General Agreement on Tariffs and Trade (GATT), the General Agreement on Trade in Services (GATS), and specialized agreements related to the oil and gas industry. Specifically, GATS highlights two key provisions: Article 1, Paragraph 1, which emphasizes market liberalization and trade facilitation, and Article 2, Paragraph 2, which guarantees non-discriminatory market access. These provisions support commercial activities in the oil and gas sector.

Other essential requirements in this context include adherence to the principles of transparency and non-discrimination, explicitly stated in Article 2.3 of the GATS agreement. These provisions ensure that governments engage fairly and equitably with one another, benefiting from competitive advantages in oil and gas trade. However, given the unique nature of the sector, member states must exercise diligence in formulating and updating domestic regulations in line with international best practices. This process involves aligning national regulations with international standards to ensure compliance with WTO objectives (Mousavi, 2018, 1, 90).

The WTO's legal mechanisms also include supervisory bodies such as the General Council and specialized committees, which contribute to the resolution of trade disputes. For instance, the WTO's Dispute Settlement System, defined under Article 1.1 of the Dispute Settlement Understanding (DSU), provides member states with a fair and expedited process for resolving trade conflicts related to oil and gas. Despite the presence of these mechanisms, challenges remain in advancing oil and gas trade under the WTO framework.

One major challenge is the diversity of national regulations and their misalignment with international standards, which may create non-tariff barriers. Additionally, in some cases, the lack of necessary infrastructure for ensuring transparency and proper law enforcement benefits certain countries at the expense of fair competition (Kamali, 2022, 2, 145).

To establish an efficient and comprehensive system, WTO member states must continuously review and reform their domestic regulations, leverage international experiences, and enhance transparency and cooperation with other countries. Ultimately, this underscores the need for a strong commitment among WTO members to uphold the organization's principles and work towards a fair and competitive oil and gas trade environment that benefits all parties, thereby contributing to the sustainable development of the industry.

5. Challenges and Deficiencies of the World Trade Organization in Managing Energy Trade

The World Trade Organization (WTO), as an international institution facilitating and regulating global trade, faces numerous challenges and deficiencies in managing energy trade, particularly in the oil and gas sectors, which can impact its efficiency. These challenges stem not only from legal and structural shortcomings but also from an imbalance between the interests of developed and developing countries.

One fundamental challenge is the lack of comprehensive and specific agreements for energy trade within the WTO framework. While general agreements such as the General Agreement on Tariffs and Trade (GATT) and the General Agreement on Trade in Services (GATS) apply to various sectors, they remain incomplete and overly broad in addressing the complexities and specificities of the energy industry, particularly oil and gas. For instance, Articles 1 and 2 of the GATT refer to general trade principles, but they fail to adequately address the unique needs of the energy sector.

Additionally, the existing fragmentation in the global energy market exacerbates this issue. Energy-producing and energy-consuming countries often have divergent interests, which can lead to serious disputes over tariffs and market access. In this regard, Article 11 of the GATT stipulates requirements for trade facilitation; however, in practice, consumer countries frequently implement protective measures against foreign enterprises, creating non-tariff barriers for producer countries (Fallah, 2020, 1, 115).

Another shortcoming related to the WTO is the lack of effective dispute resolution mechanisms in the energy sector. Although the WTO's dispute settlement system is defined under Article 1.1 of the Dispute Settlement Understanding (DSU), the complexity of negotiations and disputes concerning energy slows down the process, making it insufficient in providing immediate and effective solutions. Moreover, the reluctance of certain countries to provide transparent and accurate information regarding energy trade can escalate conflicts and hinder dispute resolution efforts.

Environmental challenges and the varying approaches of WTO member states to climate change also undermine the organization's efficiency in managing energy trade. Different countries may adopt distinct policies and domestic regulations aimed at aligning with environmental standards, which may result in restricting energy imports. Article 20 of the GATT provides for exceptions related to environmental protection, yet the interpretation and implementation of this provision are often influenced by political and economic considerations, leading to inefficiencies in the trade system (Azad, 2021, 2, 97).

Finally, structural deficiencies and the need for reforms in the WTO's legal framework further contribute to these challenges. Many countries prioritize their national interests by entering into bilateral and multilateral agreements, thereby overshadowing WTO rules. Such decentralized trade activities weaken the credibility and effectiveness of the multilateral trading system.

Given these challenges, the WTO must proactively and continuously review and reform its regulations and mechanisms to establish an efficient and comprehensive trade system in the energy sector. Achieving this goal requires enhanced cooperation among member states and constructive engagement in policymaking and information-sharing to develop a fair and effective trade system. Ultimately, the success of energy trade management is directly tied to the WTO's ability to respond to the evolving and diverse challenges of the sector (Finger, 2019, 1, 64).

6. The Role and Reciprocal Impact of the World Trade Organization in Managing Energy Trade

As a foundational institution in drafting and managing international trade regulations, the WTO plays a significant role in overseeing and facilitating energy trade. The organization seeks to establish clear legal frameworks and standards for various energy transactions, including oil and gas. One key provision in this regard is Article 11 of the GATT, which emphasizes the principle of non-discrimination, allowing member states to engage fairly with one another. This principle is particularly crucial in the energy sector, as it facilitates access to global markets and helps prevent the imposition of non-tariff barriers.

However, the WTO's role and reciprocal impact on energy trade management come with challenges. A primary challenge is the diversity of national laws and regulations across different countries. Governments may implement protectionist policies or impose unfair tariffs, directly affecting energy trade. For example, Article 2 of the GATS emphasizes non-discrimination in market access for services; however, in the energy sector, producer countries often face complex and opaque regulations that hinder market entry. This can incentivize consumer countries to enact restrictive policies to shield themselves from global competition (Green, 2018, 1, 112).

The WTO's role in dispute resolution is also significant. The organization's Dispute Settlement System, specifically defined under Article 1.1 of the DSU, should effectively manage disputes arising in the energy sector. However, when disputes arise due to technical or political complexities, the resolution process tends to be slow. A clear example of this inefficiency is the disputes over high energy tariffs between developed and developing countries, which can escalate tensions and disproportionately benefit certain nations.

Furthermore, environmental concerns and efforts to combat climate change influence the WTO's role. While Article 20 of the GATT allows member states to take trade-restrictive measures for environmental protection, this provision can be exploited as a tool to limit energy trade. This issue is controversial because different interpretations of the article can lead to potential misuse (Jha, 2020, 1, 85).

International cooperation and the proliferation of bilateral and multilateral agreements also impact the WTO's ability to manage energy trade effectively. Despite the WTO's efforts to create a unified trading system, member states—especially major energy consumers and producers—often prefer bilateral agreements that serve their specific interests rather than engaging within multilateral frameworks. This trend can lead to the emergence of parallel and non-transparent trade systems, undermining the WTO's credibility.

Ultimately, the WTO's influence on energy trade management largely depends on its ability to address existing disparities and regulatory inconsistencies. Strengthening effective mechanisms for dispute resolution and establishing more comprehensive agreements tailored to the energy sector can facilitate trade interactions and contribute to a more stable and competitive energy market. To achieve this, the WTO must continuously refine its existing rules and mechanisms to adapt to evolving challenges in energy trade, enabling countries to pursue their sustainable development goals while safeguarding their trade interests. Success in this domain requires synergy among nations and a commitment to the principles of international trade as outlined in the WTO's regulatory framework (Barton & Boss, 2019, 2, 75).

7. Conclusion

The diversity of national laws and legal systems, which result from differing interests between energy-producing and energy-consuming countries, leads to inconsistencies in the implementation of free trade principles. The lack of agreement and transparency in trade regulations allows certain countries to impose tariffs and protective measures that not only hinder energy trade but also undermine equal opportunities. Additionally, environmental challenges and efforts to mitigate climate change impact the WTO's efficiency in managing energy trade. While international agreements such as Article 20 of the GATT permit member states to take environmental protection measures, the use of such provisions as a tool to restrict energy trade—particularly by consumer countries—raises concerns regarding conflicting interests and potential misuse.

Moreover, regional and international actors such as the European Union and OPEC engage with the WTO, and their interactions contribute to strengthening trade mechanisms and dispute resolution in this sector. However, these interactions also face political and economic challenges, sometimes intensifying tensions and causing disagreements over trade policies.

To enhance the WTO's effectiveness in managing energy trade, constructive cooperation and continuous revision of existing rules and mechanisms are necessary. This will enable the organization to effectively address the diverse and evolving challenges of the energy sector, allowing member states to achieve their sustainable development goals while preserving their trade interests.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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Declaration of Interest

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Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

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