

Book review

THE WORLD TRADE ORGANIZATION NEEDS TO PREPARE BETTER FOR FUTURE PANDEMICS

Trade Therapy: Deepening Cooperation to Strengthen Pandemic Defenses by the World Bank and the World Trade Organization, Washington, D.C.: International Bank of Reconstruction and Development/The World Bank and the World Trade Organization, ISBN: 978-4648-1885-972, pages 192. Available at <https://openknowledge.worldbank.org/bitstream/handle/10986/37494/9781464818851.pdf?sequence=5&isAllowed=y>.

For the international community and many individuals like us, the world has never been in a situation like today, with multiple and overlapping challenges, each of enormous gravity. Among them are climate change, an economic crisis, a food and energy crisis, geopolitical confrontation and pandemics, such as COVID-19 and monkeypox. Trade is an indispensable element for the solutions that the international community is struggling to seek. The “horizon has darkened”, as said by Kristalina Georgieva, Managing Director of the International Monetary Fund (IMF), and with serious implications including rapid deepening inequality, as pointed out by David Malpass, the World Bank Group President, not long ago.

Particularly for the COVID-19 pandemic, the related devastating effects are more perceptible, with not only pervasive infections and unprecedented casualties, but also serious impacts on almost each and every aspect of how the global community operates, such as lockdowns, home officing, cancellation of physical meetings, trade disruptions and panic reactive policies by many governments, quite often of a beggar-thy-neighbour nature, harming neighbouring countries and the countries applying them.

To tackle all of these challenges, the international community needs a strong and resilient global governance structure to develop effective and timely responses. This means that all related international organizations need to join hands to demonstrate collective leadership in initiating a process to mobilize countries, major players in particular, to take actions and respond collectively to these challenges. Such actions should be holistic and combine strengths from all organizations, political, economic, monetary, trade and humanitarian. Among them, trade is an indispensable element for such actions. “Trade is very much part of the mix of policy solutions required to deliver the equitable growth, job creation, and environmental sustainability people

around the world need,” said World Trade Organization (WTO) Director-General Ngozi Okonjo-Iweala on 12 May 2022 at the spring session of the United Nations Chief Executives Board for Coordination.

Bearing all of this in mind, joint efforts involving international organizations were sought by to first produce evidence-based research findings. They included the following: “Promoting access to medical technologies and innovation: intersections between public health, intellectual property and trade” by the World Health Organization (WHO), the World Intellectual Property Organization (WIPO) and WTO; “Trading into a bright energy future: the case for open, high-quality solar photovoltaic markets” by the WTO and the International Renewable Energy Agency (IRENA); and “Trade therapy-deepening cooperation to strengthen pandemic defences” (hereinafter referred to as “trade therapy”) by the World Bank and WTO.

Among them, I enjoyed in particular reading the one on trade therapy, which has enabled the completion of a thorough and objective analysis of the challenges related to pandemics and has brought forward some sensible proposals on how trade could help strengthen defences through collaboration within the international community. In particular, in this joint World Bank-WTO report, the importance of open trade in dealing with such global challenges as the Covid-19 pandemic is emphasized. As rightly pointed out in the report, open trade or more protectionism will decide how effective policies that international organizations and national governments are choosing. This means, among others, open trade will determine whether we can improve access to and affordability of essential medical goods and services, and whether we can enhance the innovation of health systems that can better respond to future pandemics. The reality, sadly, is that people seldom follow wisdom, and in the case being confronted with COVID-19, many governments have acted in panic by imposing policies that were mostly trade restrictive and exacerbated the challenges in ensuring the free flow of essential medical goods and services.

Also rightly pointed out in the report are the shortcomings of the existing multilateral trading system, namely (a) a lack of information on the stocks and availability of critical inputs; (b) lack of multilateral mechanisms to mobilize financing for development of vaccines and therapeutics; (c) weaknesses in systems to facilitate the rapid cross-border movement of certified medical products; and (d) lack of a market access framework and the necessary flexibilities to deal with health workforce shortages (mobility of health personnel and telehealth).

Accordingly, new commitments in WTO agreements and in regional trade agreements are called for in the report to enable countries to better prepare for future pandemics, including an agreement to lower barriers to trade in medical goods and to support-related services, various commitments on import and export policies,

regulatory cooperation, such as mutual recognition and equivalent regimes, a balanced global intellectual property system, including a WTO intellectual property response to the COVID-19 pandemic, a reduction of service trade barriers and improvement of regulatory systems, and rules in trade agreements on subsidies. It also calls for cooperation among various stakeholders, including States, non-State actors and international organizations.

Many of these sensible proposals can be explored, agreed and implemented by WTO and its members through specific agreements or commitments, such as reducing tariffs and non-tariff barriers, minimizing regulatory divergence, putting in place trade facilitation measures, refraining from imposing export restrictions, diversifying supplies while avoiding supply chain disruptions, eliminating illicit trade in related products, easing intellectual property protection of vaccines and other essential medical products, and establishing a rapid response mechanism within WTO for future pandemics. WTO had a good opportunity to do this when it held its Twelfth Ministerial Conference in Geneva from 12 to 17 June 2022, just a few days after this report was released.

The Conference has been successful in bringing about two important documents, the Ministerial Decision on the TRIPS¹ Agreement (hereinafter referred to as “TRIPS Decision”) and the Ministerial Declaration on the WTO Response to the COVID-19 Pandemic and Preparedness for Future Pandemics (hereinafter referred to as “Declaration on Pandemic Response”). The TRIPS Decision includes a waiver of certain requirements under TRIPS concerning the use of compulsory licences to produce COVID-19 vaccines, which, as Ngozi Okonjo-Iweala said, “will make access to medical supplies and components more predictable in this pandemic, and in the next one”. The Declaration on Pandemic Response calls on relevant WTO bodies to continue or initiate work on COVID-19, with areas of focus, including export restrictions, food security, intellectual property, regulatory cooperation, services, tariff classification, technology transfer, trade facilitation and transparency, and a yearly stocktaking exercise in the General Council up to the end of 2024.

While recognizing these encouraging achievements, particularly against the extremely complicated situation that WTO was facing, it should be noted that the achievements of the Twelfth Ministerial Conference on the pandemic were only partial, leaving many important aspects for future negotiations or untouched. For example, the TRIPS Decision put aside the decision on whether to extend the waiver to cover the production and supply of COVID-19 diagnostics and therapeutics for six months until December 2022. The Declaration on Pandemic Response also falls

¹ TRIPS stands for trade-related Aspects of Intellectual Property Rights.

short of establishing a rapid response mechanism within WTO for future pandemics, except for some general language to “note the importance of the WTO working, along with the World Health Organization and other international organizations, on an international pandemic response”.

In a word, the report has done an excellent job in analysing the challenges and putting forward some sensible proposals on the WTO response to Covid-19 and possible future pandemics. WTO, however, has yet to take serious efforts, and its members need to demonstrate political will for that purpose to put in practice such proposals with specific commitments and agreements. WTO members must move quickly in this regard to compliment joint efforts of the global community so that the world does not once again encounter a difficult situation, unprepared, disorganized, and full of panic, similar to what has occurred over the past few years with COVID-19.

Finally on the report and its proposals, if I can nitpick, or as they say in Chinese "trying to pick out bones from an egg", I offer the following comments:

1. On "cooperation beyond trade agreements", it is also important to emphasize the importance of "cooperation domestically among different ministries", given that the measures implemented to react to a pandemic, and new policy actions require cooperation from other ministries, such as finance.
2. On "coordination gaps", one could also mention the lack of mechanisms within the WTO secretariat, such as a task force that could mobilize resources from within the secretariat and among WTO members to quickly examine the situation and put forward ideas for trade responses.
3. On "gaps in trade rules", maybe it would be beneficial to also mention the WTO crisis on Dispute Settlement, including in the Appellate Body, which deprives members of an effective mechanism to deal with the poor implementation of existing provisions, such as subsidies, or in preventing import and export restrictions, which are part of the trade response to pandemics.

NOTE ON CONTRIBUTOR

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