

Multilateral Trading System during the COVID-19 Pandemic

Yang Guohua*

Abstract: The beginning of 2020 saw the outbreak of the COVID-19 pandemic, which spread rapidly across the world and has resulted in immeasurable economic and social losses. International trade has been severely affected due to a dramatic decline of trade in goods and services. The multilateral trading system has experienced challenges but has actively coped with the pandemic. WTO Members reacted in a controlled manner by implementing anti-pandemic measures with minimal influences on trade and effectively participating in international cooperation; the Secretariat contributed by regularly making announcements along with other organizations and excelled in trade analysis and information tracing, while they have basically followed trade rules without disputes. The pandemic has resulted in new requirements for the multilateral trading system while providing new opportunities for its improvement.

Keywords: COVID-19 pandemic, Export restriction, International cooperation, WTO Secretariat, WTO rules

I. INTRODUCTION

COVID-19 is the most severe pandemic that human society has experienced. As of August 28, 2020, COVID-19 had spread throughout the world, infecting 24,299,923 people and killing 827,730 people,¹ along with immeasurable economic and social losses. It has severely challenged people's livelihood, national governance, and international relationships.

At the beginning of the pandemic, people panicked and were confused. Various countries adopted measures to restrict or control people's flow, and closed national borders to prevent exit and entry. These emergency responses created an unprecedented international state of "seclusion". However, as the pandemic has spread, people have realized that individual efforts are ineffective and international cooperation is inevitable. While the WHO has frequently

* Yang Guohua, Professor, Tsinghua University School of Law; WTO Arbitrator of Appeals, and Executive Vice Chairman of WTO Law Research Society of China Law Society. Email: yangguohua@mail.tsinghua.edu.cn.

¹ WHO website: <https://covid19.who.int/> (Last Visited on August 29, 2020).

made announcements and G20 Members have become more united as one, the international community has gradually reached a temporarily stable state of unified resistance to the pandemic.

The pandemic has severely affected international trade. Characterized by cross-border flow of goods and people, various countries' exit-entry restriction measures have primarily targeted international trade. Notwithstanding, along with the pandemic's development, people have gradually realized that the relationship between the pandemic and trade is not unidirectional. In other words, while the pandemic affects trade, trade also helps fight the pandemic. Personal protective equipment as well as grain import and export contribute towards people's health and survival in some developing and least-developed countries. Moreover, international trade is a significant source of momentum for economic development, and normal trade contributes to improving countries' ability to fight the pandemic. In this context, WTO and other international organizations have called on all countries to adopt rational measures, while G20 Members have announced several concrete actions. All countries' restraint and the international community's cooperation have enabled international trade to basically remain stable during difficult times. Despite a sharp decrease in trade volume, the bottom line has appeared. People are convinced that trade will steadily grow and gradually return to its normal situation.

The pandemic has challenged the ideas of love and morality. When faced with death, individual, social, and national responses have vividly demonstrated human nature, social status, and international relationships. Opinions may vary greatly when evaluations are provided at the human, social, or international levels, but an extensive common understanding exists in terms of the necessity for international cooperation. Specifically, a major concept related to international trade is that as the foundation of international cooperation, trade rules should be respected to the largest extent. Generally speaking, in the circumstances that trade has been materially affected, WTO Members have respected the multilateral trading rules as represented by the WTO rules without notable violations or disputes arising among WTO Members, which is due to WTO Members' restraint as well as the WTO and other international organizations' efforts. Established by numerous Members, the multilateral trading system contributes to the world's economic development and the maintenance of peace. Even at life-and-death moments of the pandemic's outbreak when many countries have had to adopt restrictive measures, moderation should be emphasized

and best practices should be implemented to reduce rule breaking. In fact, these extreme circumstances have tested people's faith in the multilateral trading system. Furthermore, given the pandemic's timeline, enhancing the ability to fight it requires international trade to fulfill its normal roles. Of course, efforts to fight the pandemic have presented new requirements for the multilateral trading system, i.e. improving organizational management, more effectively implementing existing rules, and even more quickly making new rules regarding transparency and electronic commerce.

The multilateral trading system consists of the WTO, its 164 Members, and its trade rules. COVID-19 has challenged each of these three aspects. However, due to the common understanding of international cooperation, the trading system has withstood challenges and demonstrated its tenacity. People have every reason to believe that as the multilateral trading system has endured the effects of this severe pandemic, this system will become stronger and more resilient.

Over the long run, many lessons can be learned from the pandemic's outbreak, e.g. its potential causes. Moreover, with the pandemic controlled, many developments must be observed, e.g. how global governance can cope with the public health crisis. However, from the beginning of 2020 to August of the same year, the pandemic emerged and spread, and governments went from focusing on their own effort to seeking international cooperation. The competition between COVID-19 and the trading system was clearly reflected, and this system demonstrated its tenacity. This paper focuses on the dynastic research (from early 2020 to August) during this chaotic period mainly based on related events and data.

II. INFLUENCE OF THE COVID-19 PANDEMIC

At the beginning of 2020, the COVID-19 pandemic broke out in Wuhan, spreading across China, and ultimately to the rest of the world.² In May 2020, the United Nations Committee for the Coordination of Statistical Activities (CCSA) issued a report entitled *How COVID-19 Is Changing the World: A Statistical Perspective*, which thoroughly explained the pandemic's influence.³

² WHO website: <https://www.who.int/emergencies/diseases/novel-coronavirus-2019/interactive-timeline> (Last Visited on August 29, 2020).

³ United Nations website: <https://unstats.un.org/unsd/ccsa/documents/covid19-report-ccsa.pdf> (Last Visited on August 29, 2020).

According to this report, COVID-19 has changed the entire world by affecting everything, e.g. how we live and interact, work and communicate, as well as move around and travel. The report includes a massive amount of data describing COVID-19's influence on society and the economy. Its social influence includes 14 aspects, i.e. agriculture and food, migrants, communication technology, vulnerable groups and existing inequality, human rights, human development, pollution and rubbish, suspension of in-person classroom learning, refugees, urban disadvantaged groups, children, medicine and suicide, as well as women and poverty. Its economic influence includes 8 aspects, i.e. a fragile banking system, an aviation crisis, employment shock, a sharp drop in trade and commodity prices, trade turmoil in medical supplies, a decline in the global manufacturing industry, heavy losses in the tourism industry, and disruptions in the international postal service industry. Specifically, trade in goods during the first quarter decreased by 3% year on year, which was expected to decrease by 26.9% during the second quarter. It is estimated that the year-round tourism industry will reduce by 60%-80%, and the quantity of international mail will decrease by 23%.

The WTO predicted as early as March that global trade would decrease by 13%-32%.⁴ Subsequent WTO monitoring showed a decreasing tendency regarding trade in services, which had a reading of 96.8 in March, lower than the base number of 100. Specifically, aviation passenger transport (93.5) and container transportation maximally decreased, while global financial transactions (97.7) and communication technology (97.0) also somewhat decreased.⁵ The research report for May analyzed the influence on trade in services.⁶ It asserted that trade in services had been comprehensively affected, covering tourism, transportation, retail, and health. For example, tourism, transportation, and distribution services were severely damaged. On the other hand, the importance of communication, computer, and other online services as well as the extensive and fundamental roles that transportation, finance, and distribution logistics services played in promoting trade and economic growth were demonstrated.

4 WTO website: https://www.wto.org/english/news_e/pres20_e/pr855_e.htm (Last Visited on August 29, 2020).

5 The base number 100 represents medium-term tendency. Increases or decreases are indicated by numbers higher or lower than 100. See WTO website: https://www.wto.org/english/news_e/news20_e/wtoi_11mar20_e.htm (Last Visited on August 29, 2020).

6 WTO website: https://www.wto.org/english/news_e/news20_e/serv_29may20_e.htm; https://www.wto.org/english/tratop_e/covid19_e/services_report_e.pdf (Last Visited on August 29, 2020).

Considering the service industry's role in terms of inputs into other economic activities, e.g. connecting supply chains and promoting trade in goods, the disruption in service supply will result in more extensive economic and trade influence. The affected categories and scopes of trade in services differ by industry and mode of provision: industries that require providers to closely serve consumers have been materially affected (e.g. physical stores in "Pattern 3" (commercial presence), while "Pattern 2" (services requiring consumers to travel abroad, e.g. tourism) and "Pattern 4" (services requiring the flow of professional staff, e.g. surgeries) have nearly been paralyzed. Retail, health, education, communication, audio-visual and other online services have been emphasized, with service providers expediting expansion of operations and consumers adapting to new habits. In the future, "Pattern 1" (cross-border services, e.g. online courses) may increase due to digital networks. Increasing online services have exposed mismatches between technology and Internet connections. For instance, students without a computer cannot have online lessons, while employees without Internet access cannot work online. At the same time, regarding trade in goods, the WTO monitoring showed a reading of 87.6 in May⁷ and 84.5 in August, an 18.6 year on year decline.⁸

Two WTO research reports in August analyzed the influence on trade in a more comprehensive manner. *Trade Costs in the Time of Global Pandemic* pointed out that tourist restrictions and border shutdowns represented various countries' initial policy responses that directly affected trade in goods and services. These measures disrupted goods transportation, business travel, and service provision that relied on individuals going abroad. Transportation and travel costs constitute an important part of trade costs, accounting for approximately 15%-31%. Freight service costs are crucial for trade costs in the manufacturing industry. Since the pandemic broke out, sea and land transportation has remained basically normal despite occasional delays. In contrast, air transportation has changed significantly, with global airfreight ability reduced by 24.6% in March. Trade in services that relies on physical proximity between providers and consumers, e.g. tourism, passenger transport, and repair service, has been severely affected due to unbearably

7 WTO website: https://www.wto.org/english/news_e/news20_e/wtoi_19may20_e.htm (Last Visited on August 29, 2020).

8 WTO website: https://www.wto.org/english/news_e/news20_e/wtoi_19aug20_e.htm (Last Visited on August 29, 2020).

high costs. Business travel is important for building trade relationships and managing global value chains, so restrictions on it has affected business and professional services as well as production in the manufacturing industry. In certain sectors, online exchanges cannot replace face-to-face communication. Statistics show that policy barriers and control differences have increased industry-wide trade costs by at least 10%. Anti-pandemic products that do not occupy a large percentage of global trade have been affected by temporary import facilitation and export restriction, the former lowering and the latter raising trade costs. The high level of uncertainty has magnified the influence of trade costs. For instance, measured based on a widely used method, the level of global uncertainty during the first quarter was 60% higher than during the start of the Iraq War and the SARS outbreak in 2003. Uncertainty has suppressed enterprises' demands for investing in new trade relationships, and increasing uncertainty will also result in shrinking trade financing, which is particularly serious with emerging economies.⁹ *Cross-border Mobility, COVID-19 and Global Trade* further analyzed the influence of restricted mobility. The report asserted that international trade has always depended on cross-border flow of people, and some services especially need physical proximity. Border measures and travel restrictions have particularly influenced tourism and education. Judging by headcount and income, international tourism has dropped to its lowest level since 1950, while international students in some schools may decrease by 50%-70% in terms of higher education. In addition, mobility obstacles have also materially affected trade in goods by influencing transportation services and information as well as trading costs.¹⁰

In short, the COVID-19 pandemic has tremendously impacted all industries, and trade in goods and services has substantially decreased. Certain online services have “benefited” from the pandemic, but their development has also been affected by generally shrinking demand and restricted mobility. In short, there is no “winner” in the wake of the pandemic. Anti-pandemic measures have been universally applied, affecting the mobility of both people and goods, and some measures targeting the import and export of certain products have had more of an influence.

9 WTO website: https://www.wto.org/english/news_e/news20_e/covid_13aug20_e.htm; https://www.wto.org/english/tratop_e/covid19_e/trade_costs_report_e.pdf (Last Visited on August 30, 2020).

10 WTO website: https://www.wto.org/english/news_e/news20_e/covid_26aug20_e.htm; https://www.wto.org/english/tratop_e/covid19_e/mobility_report_e.pdf (Last Visited on August 30, 2020).

III. MEASURES ADOPTED BY VARIOUS COUNTRIES

When coping with the pandemic, various countries have adopted border control measures to reduce mobility. The WTO's report in July summarized trade-related measures. It was a regular report that summarized and analyzed trade measures that WTO Members adopted from May 2019 to May 2020, including pandemic-related policies within the three sectors in the WTO's jurisdiction, i.e. trade in goods, trade in services, and intellectual property rights (IPRs).¹¹

A. Trade in Goods

According to the report, by mid-May, 87 WTO Members and observers had adopted 256 trade measures. At the beginning of the pandemic, most of the measures adopted restricted free flow of trade, but at the beginning of May 2020, 147 measures (57%) were generally trade-promoting ones and 109 (43%) were intended to restrict trade, which were mainly export restriction measures. Specifically, two explicit waves occurred when trade measures were implemented. The first wave occurred at the beginning of the pandemic, with various countries strictly restricting exports of the following products: gloves, medical masks, and other personal protective equipment, anti-virus drugs, ventilators and other medical equipment, and hand soap and other disinfectants. Export restrictions included requiring export authorization, setting quotas and even directly forbidding export. The second wave referred to restriction measures mainly targeting sugar, grain, buckwheat, wheat, rice, vegetables, beans, sunflower seeds, cooked food, edible oil and other food to safeguard local supply. In terms of import, some countries raised import petroleum tariffs and expenses and applied their income to urgent economic support projects to relieve economic and social crises, but major measures focused on import facilitation. Specifically, two thirds of import-facilitating measures sought to reduce or cancel tariffs by simplifying customs procedures (20%) and reducing or exempting import tariffs (11%). Some net importers reduced tariffs on personal

¹¹ Report of the TPRB from the Director-General on Trade-related Development (Mid-October 2019 to Mid-May 2020), WT/TPR/OV/W/14, July 10, 2020. Prior to this report, the WTO had specifically released a report on G20 trade measures which features identical style and conclusion as this one. Report on G20 Trade Measures (Mid-October 2019 to Mid-May 2020), June 29, 2020. See WTO website: https://www.wto.org/english/news_e/news20_e/trdev_29jun20_e.htm; https://www.wto.org/english/news_e/news20_e/report_trdev_jun20_e.pdf (Last Visited on August 30, 2020).

protective equipment and medical products, while exempting value-added taxes as well as other taxes and expenses. All countries had generally adopted measures to simplify customs procedures. The report showed that since the beginning of May, export restrictions on personal protective equipment and medical products such as medical masks, gloves, drugs and disinfectants as well as on certain food products had been gradually cancelled, and other restriction measures had also been gradually withdrawn. For instance, by mid-May, approximately 28% of the pandemic-specific measures had been abolished. At the same time, 99 measures affecting trade in services were intended to promote trade.

The report pointed out that by the end of May, the WTO Secretariat had received 152 notifications, most of which involved Sanitary and Phytosanitary Standard (SPS), Technical Barriers to Trade (TBT) and Quantitative Restrictions (QRs). Two-thirds concerned SPS and TBT, e.g. trade in personal protective equipment, food, live birds, and medical equipment. Many measures were designed to expedite certification procedures, e.g. to use electronic certification and other procedures to obtain personal protective equipment, food, and medical equipment. Some others aimed to prevent the risks associated with trade in live birds. Quantitative restrictions mainly involved export prohibitions and restrictions on personal protective equipment, cleansers, disinfectants, and drugs (restrictions on protective clothing and disinfectants respectively affected 21.5% and 17% of world trade). Roughly half of the trade restriction measures were temporary. In addition, by mid-May, the Secretariat had collected 28 IPRs-related measures, some of which aimed at promoting innovation or obtaining health technologies and others relaxed administrative procedural requirements or deadlines.

The report stated that from early March to May 15, various countries had adopted 468 government support measures including currency, financial, and fiscal measures, as well as concessional loans, credit guarantees, and stimulus plans, which amounted to trillions of US dollars and aimed at preventing the economy from sliding due to the pandemic and preparing for a powerful economic recovery. Measures that various countries adopted resembled those implemented during the 2008-2009 global financial crisis, only that these measures were designed to cope with global health emergencies and settle profound social and economic issues. A specific type of support measures that various countries provided targeted materially affected industries (health, aviation, tourism,

catering, sanitation and safety, agriculture, fishery, childcare, innovation and sports, etc.), and included providing funds to health systems, encouraging R&D of vaccines as well as diagnostic and treatment technologies, providing aid to medium, small, and large enterprises, compensating for losses in income or extra costs, granting allowances to families and self-employed employees, and providing companies with salary subsidies. Another type of policies featured moderately easy monetary policies that the Central Bank implemented, including reducing policy interest rates, legal reserve ratios and repossession rates, issuing and purchasing government bonds, extending bond maturity and restructuring installment extensions to reduce economic entities' costs of capital. Support policies also included financial and fiscal policies safeguarding successful economic development, including strengthening families and enterprises' credit supply, providing more mobility to banks, relaxing time limits for bank deposits and loans, allowing for moratorium and credit guarantees, as well as reducing taxes and dues.

In short, various countries' trade measures were mainly for export restriction and import facilitation targeting identical products, i.e. personal protective equipment, medical products, and food. In addition, measures also involved anti-pandemic, technical, and government support.

B. Trade in Services and IPRs

Regarding trade in services, the WTO Secretariat gathered 99 measures, most of which were trade-promoting measures, including enhancing telecommunication operators' abilities, ensuring the public's access to the Internet and mobile data as well as obtaining online education and health services, making transportation service flexible to continue safeguarding cross-border freight supply, and relaxing requirements on banks to facilitate credit and loans. Meanwhile, some measures tightened the investment system (e.g. foreign investment's access to public health or crucial product or service industries must be reviewed) and affected foreign investment in certain fields.

IPRs measures include those promoting innovation or obtaining health technologies, as well as those relaxing administrative procedural requirements or deadlines. Some Members thought it was necessary to compulsorily license pandemic-related technologies, and some others prepared to publish patent information or product standards.

The above-mentioned measures regarding trade in goods, trade in services,

and IPRs were measures that various Members adopted, and some of them were self-serving. For example, export restrictions only considered a single party, while trade promotion and compulsory licensing was aimed at obtaining various items from others. These are unsustainable measures.

IV. THE INTERNATIONAL COMMUNITY'S EFFORTS

When faced with the global pandemic, each country should not act unilaterally. Instead, the right method is to promote cooperation in good faith, which has become an international consensus. As a special organization dedicated to coping with worldwide public health crises, the WHO has fulfilled its responsibilities and played significant roles in information distribution and international coordination.¹² Regarding trade, the WTO, G20 and other countries have provided representation, responded rationally and adopted several measures.

A. The WTO

Similar to other international organizations, the WTO's operations have been affected, undergoing difficulties such as employee infection and office building closures,¹³ and even the extreme circumstance of the cancellation of the 12th Ministerial Conference.¹⁴ That being said, as an organization dedicated to international trade, the WTO has used all of its effort to exercise its due functions.

The WTO Director-General has actively sought joint actions with other international organizations. First, he issued a joint statement with the heads of the UN Food and Agriculture Organization (FAO) and the World Health

12 At the beginning of the pandemic, the WTO's performance was somewhat doubted, and the United States even publicly criticized it and ultimately terminated their relationship with it by no longer paying the membership fee. See website of the United States White House: <https://www.whitehouse.gov/briefings-statements/president-donald-j-trump-demanding-accountability-world-health-organization/>; <https://www.whitehouse.gov/wp-content/uploads/2020/05/Tedros-Letter.pdf>; <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-press-briefing/>; CNN website: <https://edition.cnn.com/2020/05/29/politics/donald-trump-world-health-organization/index.html> (Last Visited on September 7, 2020).

13 On March 10, the WTO Director-General announced suspension of all meetings following the confirmation of a staff member's COVID-19 infection. See WTO website: https://www.wto.org/english/news_e/news20_e/dgra_10mar20_e.htm (Last Visited on September 1, 2020).

14 On March 12, the WTO Director-General announced that the sponsor of Ministerial Conference Kazakhstan had requested WTO Members to revisit the decision to hold the Meeting from June 8 to June 11. The Meeting was cancelled later. See WTO website: https://www.wto.org/english/news_e/news20_e/minis_12mar20_e.htm (Last Visited on September 1, 2020).

Organization (WHO), calling on them to keep food trade flowing.¹⁵ Second, he issued a joint statement with the Secretary-General of the International Chamber of Commerce (ICC), calling for more governmental dialogue with business to maximize the effectiveness of public policies and to mitigate the economic damage (particularly regarding trade) resulting from measures to cope with the COVID-19 pandemic.¹⁶ Third, he issued a joint statement with the Secretary-General of the World Customs Organization (WCO), determined to act to facilitate trade in essential goods. The statement said the two organizations would work closely together to minimize disruption to cross-border trade in goods — in particular those essential for combatting the COVID-19 pandemic — while safeguarding public health. They also pledged to establish a coordinated approach to support initiatives that facilitate cross-border trade so that essential goods can quickly reach those most in need, particularly least-developed and land-locked countries. In addition, Members of the two organizations had been required to increase transparency by sharing information on trade measures.¹⁷ Fourth, he issued a joint statement with the Secretary-General of the WHO, underlying the importance of open trade in ensuring the flow of vital medical supplies.¹⁸ Fifth, he issued a joint statement with the International Monetary Fund (IMF) Managing Director, calling for lifting of trade restrictions on medical supplies and food.¹⁹ Sixth, he issued a joint statement with the presidents of six development banks, declaring his support for trade finance.²⁰ Seventh, he issued a joint statement with the ICC and B20, calling for the expansion of trade finance.²¹ Moreover, the WTO Director-General also actively called on various

15 March 30. See WTO website: https://www.wto.org/english/news_e/news20_e/igo_26mar20_e.htm (Last Visited on September 1, 2020).

16 April 2. See WTO website: https://www.wto.org/english/news_e/news20_e/igo_02apr20_e.htm; https://www.wto.org/english/news_e/news20_e/icc_wto_covid_statement_e.pdf (Last Visited on September 1, 2020).

17 April 6. See WTO website: https://www.wto.org/english/news_e/news20_e/igo_06apr20_e.htm (Last Visited on September 2, 2020).

18 April 20. See WTO website: https://www.wto.org/english/news_e/news20_e/igo_14apr20_e.htm (Last Visited on September 2, 2020).

19 April 24. See WTO website: https://www.wto.org/english/news_e/news20_e/igo_15apr20_e.htm (Last Visited on September 2, 2020).

20 July 1. The six banks are International Finance Corporation (IFC), European Bank for Reconstruction and Development (EBRD), Asian Development Bank (ADB), African Development Bank Group (AFDB), Islamic Trade Finance Corporation (ITFC) and the Inter-American Development Corporation (IDB Invest). See WTO website: https://www.wto.org/english/news_e/news20_e/trfin_01jul20_e.htm; https://www.wto.org/english/news_e/news20_e/trfin_01jul20_e.pdf (Last Visited on September 2, 2020).

21 July 7. See WTO website: https://www.wto.org/english/news_e/news20_e/trfin_08jul20_e.htm; https://www.wto.org/english/news_e/news20_e/trfin_08jul20_e.pdf (Last Visited on August 30, 2020).

countries to notify trade measures.²²

The WTO Secretariat participated in active coordination and published nearly 20 analysis reports, while relying on its best effort to conduct routine work. These reports involved the following content: monitoring data for trade in services²³ and trade in goods;²⁴ the situation of trade in global medical supplies;²⁵ a 13%-32% decrease in global trade during 2020;²⁶ a sharp decrease in trade during the first half of 2020;²⁷ an increase in export restriction measures;²⁸ treatment of medical supplies under regional trade agreements;²⁹ the role that electronic commerce has played in coping with the pandemic;³⁰ the trade influence of graduating from the status of a least developed country;³¹ the influence of standards and control policies;³² the influence of the pandemic on trade in services;³³ the influence of the pandemic on small enterprises;³⁴ the influence of the pandemic on the poorest countries;³⁵ the influence of the pandemic

22 March 25. See WTO website: https://www.wto.org/english/news_e/news20_e/dgra_24mar20_e.htm (Last Visited on August 30, 2020).

23 March 11. See WTO website: https://www.wto.org/english/news_e/news20_e/wtoi_11mar20_e.htm; https://www.wto.org/english/news_e/news20_e/wtoi_11mar20_e.pdf (Last Visited on August 31, 2020).

24 May 20. See WTO website: https://www.wto.org/english/news_e/news20_e/wtoi_19may20_e.htm; August 19. See WTO website: https://www.wto.org/english/news_e/news20_e/wtoi_19aug20_e.htm; https://www.wto.org/english/news_e/news20_e/wtoi_19aug20_e.pdf (Last Visited on August 31, 2020).

25 April 3. See WTO website: https://www.wto.org/english/news_e/news20_e/rese_03apr20_e.htm; https://www.wto.org/english/news_e/news20_e/rese_03apr20_e.pdf (Last Visited on August 31, 2020).

26 April 8. See WTO website: https://www.wto.org/english/news_e/pres20_e/pr855_e.htm (Last Visited on August 31, 2020).

27 June 22. See WTO website: https://www.wto.org/english/news_e/pres20_e/pr858_e.htm (Last Visited on August 31, 2020).

28 April 23. See WTO website: https://www.wto.org/english/news_e/news20_e/rese_23apr20_e.htm; https://www.wto.org/english/tratop_e/covid19_e/export_prohibitions_report_e.pdf (Last Visited on August 31, 2020).

29 April 27. See WTO website: https://www.wto.org/english/news_e/news20_e/rta_27apr20_e.htm; https://www.wto.org/english/tratop_e/covid19_e/medical_products_report_e.pdf (Last Visited on August 31, 2020).

30 May 4. See WTO website: https://www.wto.org/english/news_e/news20_e/rese_04may20_e.htm; https://www.wto.org/english/tratop_e/covid19_e/ecommerce_report_e.pdf (Last Visited on August 31, 2020).

31 May 8. See WTO website: https://www.wto.org/english/news_e/news20_e/rese_08may20_e.htm; https://www.wto.org/english/news_e/news20_e/rese_08may20_e.pdf (Last Visited on August 31, 2020).

32 May 20. See WTO website: https://www.wto.org/english/news_e/news20_e/covid_20may20_e.htm; https://www.wto.org/english/tratop_e/covid19_e/standards_report_e.pdf (Last Visited on August 31, 2020).

33 May 29. See WTO website: https://www.wto.org/english/news_e/news20_e/serv_29may20_e.htm; https://www.wto.org/english/tratop_e/covid19_e/services_report_e.pdf (Last Visited on August 31, 2020).

34 June 3. See WTO website: https://www.wto.org/english/news_e/news20_e/msmes_03jun20_e.htm; https://www.wto.org/english/tratop_e/covid19_e/msmes_report_e.pdf (Last Visited on August 31, 2020).

35 June 10. See WTO website: https://www.wto.org/english/news_e/news20_e/covid_10jun20_e.htm; https://www.wto.org/english/tratop_e/covid19_e/ldcs_report_e.pdf (Last Visited on August 31, 2020).

on trade in agricultural products;³⁶ G20 trade measures;³⁷ maintaining open trade to achieve the United Nations' sustainable development goals and economic recovery;³⁸ import measures that WTO Members are adopting;³⁹ the influence of the pandemic on increased trade costs;⁴⁰ and the influence of cross-border mobility restrictions on global trade.⁴¹ Measures to cope with the pandemic included: establishing a special column focused on "COVID-19 and world trade" on the WTO website for publishing trade-related information;⁴² creating an online platform to facilitate written submissions of concerns regarding trade barriers among WTO Members;⁴³ holding business leader meetings to discuss trade and the WTO's role;⁴⁴ and holding sustainable trade seminars.⁴⁵ WTO Members had praised the WTO Secretariat's efforts to supervise trade policies.⁴⁶ In addition, the WTO even held a "WTO Moot Court" Competition as scheduled.⁴⁷

It is particularly worth mentioning that the WTO Deputy Director-General Alan Wolff frequently delivered over ten speeches to call on the international community to correctly cope with the pandemic. He delivered several speeches with the Washington International Trade Association, arguing that it required

36 August 29. See WTO website: https://www.wto.org/english/news_e/news20_e/agri_27aug20_e.htm; https://www.wto.org/english/tratop_e/covid19_e/agric_report_e.pdf (Last Visited on August 31, 2020).

37 June 29. See WTO website: https://www.wto.org/english/news_e/news20_e/trdev_29jun20_e.htm; https://www.wto.org/english/news_e/news20_e/report_trdev_jun20_e.pdf (Last Visited on August 31, 2020).

38 July 13. See WTO website: https://www.wto.org/english/news_e/news20_e/sdgs_13jul20_e.htm; https://sustainabledevelopment.un.org/content/documents/26126WTO_HLPF_Input_2020.pdf (Last Visited on August 31, 2020).

39 July 24. See WTO website: https://www.wto.org/english/news_e/news20_e/trdev_24jul20_e.htm (Last Visited on August 31, 2020).

40 August 13. See WTO website: https://www.wto.org/english/news_e/news20_e/covid_13aug20_e.htm; https://www.wto.org/english/tratop_e/covid19_e/trade_costs_report_e.pdf (Last Visited on August 31, 2020).

41 August 26. See WTO website: https://www.wto.org/english/news_e/news20_e/covid_26aug20_e.htm; https://www.wto.org/english/tratop_e/covid19_e/mobility_report_e.pdf (Last Visited on August 31, 2020).

42 March 25. See WTO website: https://www.wto.org/english/news_e/news20_e/covid_25mar20_e.htm; https://www.wto.org/english/tratop_e/covid19_e/covid19_e.htm (Last Visited on August 31, 2020).

43 May 14. See WTO website: https://www.wto.org/english/news_e/news20_e/tbt_08jun20_e.htm (Last Visited on August 31, 2020).

44 May 19. See WTO website: https://www.wto.org/english/news_e/news20_e/trdia_19may20_e.htm (Last Visited on August 31, 2020).

45 June 4. See WTO website: https://www.wto.org/english/news_e/news20_e/envir_04jun20_e.htm (Last Visited on August 31, 2020).

46 WTO website: https://www.wto.org/english/news_e/news20_e/mark_08jun20_e.htm (Last Visited on September 1, 2020).

47 The final round was held on June 22-28. See WTO website: https://www.wto.org/english/news_e/news20_e/stud_29jun20_e.htm (Last Visited on September 1, 2020).

unprecedented international cooperation to cope with the pandemic;⁴⁸ introducing the WTO's measures in this regard and its roles;⁴⁹ and calling for planning post- pandemic recovery.⁵⁰ In speeches delivered on other occasions, he stressed the importance of policy coordination;⁵¹ mentioned that food security relied on international trade;⁵² reinforced the significance of multilateralism;⁵³ called on various countries to actively participate in cooperation;⁵⁴ called for research on the multilateral trading system's future;⁵⁵ warned that challenges to the WTO had not ended;⁵⁶ suggested that recently acceded Members had created hope for the multilateral trading system;⁵⁷ firmly believed that this system will endure;⁵⁸ held that economy was intimately related to peace;⁵⁹ argued that the pandemic had demonstrated the necessity to improve this system's relevance and flexibility;⁶⁰ considered that openness, balance and trust are the WTO's core values;⁶¹ and opined that world trade is jointly regulated by

48 March 26. See WTO website: https://www.wto.org/english/news_e/news20_e/dgra_24mar20_e.htm (Last Visited on September 1, 2020).

49 April 1. See WTO website: https://www.wto.org/english/news_e/news20_e/ddgaw_01apr20_e.htm (Last Visited on September 1, 2020).

50 April 9. See WTO website: https://www.wto.org/english/news_e/news20_e/ddgaw_09apr20_e.htm (Last Visited on September 1, 2020).

51 April 20, Center for China and Globalization. See WTO website: https://www.wto.org/english/news_e/news20_e/ddgaw_20apr20_e.htm (Last Visited on September 1, 2020).

52 April 30, "Trade Dialogues on Food" Webinar. See WTO website: https://www.wto.org/english/news_e/news20_e/ddgaw_30apr20_e.htm (Last Visited on September 1, 2020).

53 May 7, African Institute for Economic Development and Planning. See WTO website: https://www.wto.org/english/news_e/news20_e/ddgaw_07may20_e.htm (Last Visited on September 1, 2020).

54 May 7, Foreign Trade Authority of Saudi Arabia. See WTO website: https://www.wto.org/english/news_e/news20_e/ddgaw_08may20_e.htm (Last Visited on September 1, 2020).

55 May 27, Korean International Trade Association. See WTO website: https://www.wto.org/english/news_e/news20_e/ddgaw_27may20_e.htm (Last Visited on September 1, 2020).

56 June 5, UK House of Commons' International Trade Committee. See WTO website: https://www.wto.org/english/news_e/news20_e/ddgaw_05jun20_e.htm (Last Visited on September 1, 2020).

57 June 9, Informal Group of Acceding Governments. See WTO website: https://www.wto.org/english/news_e/news20_e/ddgaw_09jun20_e.htm (Last Visited on September 1, 2020).

58 June 10, Delphi Economic Forum in Greece. See WTO website: https://www.wto.org/english/news_e/news20_e/ddgaw_11jun20_e.htm (Last Visited on September 1, 2020).

59 June 16, Institute for Economics and Peace. See WTO website: https://www.wto.org/english/news_e/news20_e/ddgaw_16jun20_e.htm. July 17, American University. See WTO website: https://www.wto.org/english/news_e/news20_e/ddgaw_17jul20_e.htm (Last Visited on September 1, 2020).

60 June 17, Think20. See WTO website: https://www.wto.org/english/news_e/news20_e/ddgaw_18jun20_e.htm (Last Visited on September 1, 2020).

61 June 25, Riyadh Initiative on the Future of the WTO. See WTO website: https://www.wto.org/english/news_e/news20_e/ddgaw_25jun20_e.htm (Last Visited on September 1, 2020).

multilateral, regional, and bilateral trade agreements.⁶²

B. WTO Members

During the pandemic, WTO meetings have been conducted online,⁶³ but WTO Members have still been able to exchange views on important issues. Moreover, they tried their best to continue their normal work, including: proceeding with negotiations on fisheries subsidies⁶⁴ and agriculture;⁶⁵ exchanging opinions on trade responses to the COVID-19 pandemic;⁶⁶ discussing the impact of COVID-19 on developing economies' participation in world trade;⁶⁷ deliberating on farm support packages and export restriction measures adopted in response to COVID-19;⁶⁸ underlining the importance of facilitating safe agri-food trade;⁶⁹ discussing the release of the SPS Declaration;⁷⁰ identifying challenges and opportunities of online services trade;⁷¹ deciding on supporting efforts to create a circular economy to tackle plastic pollution;⁷² deliberating trade policies for Australia⁷³ and Japan;⁷⁴ discussing the impact of COVID-19 on Aid for Trade

62 August 11, American Association of Exporters and Importers. See WTO website: https://www.wto.org/english/news_e/news20_e/ddgaw_11aug20_e.htm (Last Visited on September 1, 2020).

63 April 17, WTO Members specially discussed the issue of online meetings. See WTO website: https://www.wto.org/english/news_e/news20_e/hod_17apr20_e.htm (Last Visited on September 1, 2020).

64 March 23. See WTO website: https://www.wto.org/english/news_e/news20_e/fish_23mar20_e.htm; https://www.wto.org/english/news_e/news20_e/fish_06mar20_e.htm (Last Visited on September 1, 2020).

65 March 26. See WTO website: https://www.wto.org/english/news_e/news20_e/agri_26mar20_e.htm (Last Visited on September 1, 2020). On May 20, WTO Members highlighted the importance of agriculture negotiations. See WTO document: https://www.wto.org/english/news_e/news20_e/agng_25amay20_e.htm (Last Visited on September 1, 2020).

66 May 15. See WTO website: https://www.wto.org/english/news_e/news20_e/gc_18may20_e.htm (Last Visited on September 1, 2020).

67 May 26. See WTO website: https://www.wto.org/english/news_e/news20_e/devel_26may20_e.htm (Last Visited on September 1, 2020).

68 June 18. See WTO website: https://www.wto.org/english/news_e/news20_e/agri_18jun20_e.htm (Last Visited on September 1, 2020).

69 June 24. See WTO website: https://www.wto.org/english/news_e/news20_e/sps_24jun20_e.htm (Last Visited on September 1, 2020).

70 June 24-26. See WTO website: https://www.wto.org/english/news_e/news20_e/sps_26jun20_e.htm (Last Visited on September 8, 2020).

71 July 1. See WTO website: https://www.wto.org/english/news_e/news20_e/serv_01jul20_e.htm (Last Visited on September 1, 2020).

72 July 3. See WTO website: https://www.wto.org/english/news_e/news20_e/envir_03jul20_e.htm (Last Visited on September 1, 2020).

73 March 11-13. See WTO website: https://www.wto.org/english/news_e/news20_e/news20_e.htm ; https://www.wto.org/english/tratop_e/tpr_e/tp496_crc_e.htm (Last Visited on September 1, 2020).

74 July 6-8. See WTO website: https://www.wto.org/english/news_e/news20_e/news20_e.htm; https://www.wto.org/english/tratop_e/tpr_e/tp497_crc_e.htm (Last Visited on September 3, 2020).

Initiatives;⁷⁵ advocating for increased transparency on COVID-19 measures in farm trade;⁷⁶ talking about the role of the intellectual property (IP) system in fighting COVID-19;⁷⁷ mentioning cotton development assistance and the impact of COVID-19 on cotton trade;⁷⁸ and debating about the impact of COVID-19 trade disruptions on women.⁷⁹ Since the then Director-General had announced he would step down ahead of schedule,⁸⁰ various Members began the nomination process for the next Director-General.⁸¹ Moreover, 50 Members including the EU and China established the Multi-party Interim Appeal Arrangement (MPIA) to handle appeal cases arising among WTO Members.⁸²

It is even more praiseworthy that some Members tried their best to provide assistance and jointly adopted measures. Japan donated CHF 125,000,⁸³ the EU CHF 2.1 million⁸⁴ and Liechtenstein CHF 40,000⁸⁵ to enhance the trading capacities of developing countries and least-developed countries. Canada respectively donated CHF 300,000 and CHF 60,000 to fund developing countries in agricultural⁸⁶ and international trade.⁸⁷ Singapore and New Zealand were the first to adopt joint actions, cancelling import tariffs on basic products

75 July 7. See WTO website: https://www.wto.org/english/news_e/news20_e/aid_07jul20_e.htm (Last Visited on September 3, 2020).

76 July 28. See WTO website: https://www.wto.org/english/news_e/news20_e/agri_28jul20_e.htm (Last Visited on September 3, 2020).

77 July 30. See WTO website: https://www.wto.org/english/news_e/news20_e/trip_30jul20_e.htm (Last Visited on September 3, 2020).

78 WTO website: https://www.wto.org/english/news_e/news20_e/cott_30jul20_e.htm (Last Visited on September 3, 2020).

79 August 5. See WTO website: https://www.wto.org/english/news_e/news20_e/covid_05aug20_e.htm (Last Visited on September 3, 2020).

80 Step-down one year ahead of schedule was announced on May 14. See WTO website: https://www.wto.org/english/news_e/news20_e/dgra_14may20_e.htm (Last Visited on September 3, 2020).

81 WTO website: https://www.wto.org/english/news_e/news20_e/dgsel_20may20_e.htm; https://www.wto.org/english/news_e/news20_e/dgsel_10jul20_e.htm; https://www.wto.org/english/thewto_e/dg_e/dgsel20_e/dgsel20_e.htm (Last Visited on September 4, 2020).

82 WTO document: JOB/DSB/1/Add.12.

83 March 24. See WTO website: https://www.wto.org/english/news_e/pres20_e/pr854_e.htm (Last Visited on September 4, 2020).

84 July 2. See WTO website: https://www.wto.org/english/news_e/pres20_e/pr859_e.htm (Last Visited on September 4, 2020).

85 July 21. See WTO website: https://www.wto.org/english/news_e/pres20_e/pr860_e.htm (Last Visited on September 4, 2020).

86 April 27. See WTO website: https://www.wto.org/english/news_e/pres20_e/pr856_e.htm (Last Visited on September 4, 2020).

87 May 2. See WTO website: https://www.wto.org/english/news_e/pres20_e/pr857_e.htm (Last Visited on September 4, 2020).

such as medical products, health care products, drugs and agricultural products, not adopting export restriction measures, and facilitating sea and air transportation.⁸⁸ Canada and several WTO Members published an initiative requiring that an open and predictable trade environment should be maintained for agricultural products and food. Specifically, all Members committed to keep supply chains open and connected, ensure that the international market continues to support the flow of agricultural products and their raw materials, avoid food shortages and safeguard global food security; exercise restraint in terms of domestic food storage and avoid disrupting international trade; not to implement export restrictions and unfair trade barriers on agricultural products; ensure that emergency measures are targeted, proportionate, transparent, and temporary, not constituting unnecessary trade barriers, and conforming to WTO rules; promptly notify other Members about these measures and their scientific bases while accepting deliberation; ensure accurate and updated data for food production, consumption, storage, and price; support the WTO and other international organizations in analyzing the impact of COVID-19 on global trade in agricultural products; and maintain regular dialogues within the WTO and on other occasions to restrain unfair agricultural product export restrictions.⁸⁹ Switzerland and many WTO Members issued a joint statement on the pandemic and the multilateral trading system, holding that a predictable, transparent, non-discriminatory and open global trading system is crucial for extensive and sustainable economic recovery. Hence, they decided to support the rules-based multilateral trading system and the WTO's core role, act in accordance with WTO rights and obligations, and not to implement new unfair barriers on investment and trade in goods and services.⁹⁰

An even more important joint action that WTO Members took was their joint statements and collective measures during G20 meetings, etc. As a main part of global trade, G20 Members have publicly declared to cooperate, which is an inspiring decision. First, a joint statement was issued at the Extraordinary G20 Leaders' Summit to show their determination to fight the pandemic, restore confidence, maintain financial stability, and recover economic growth. Specifically, they will make efforts to adopt all possible policy instruments to reduce economic and social damage, adopt fiscal measures to restore global

88 April 15. See WTO document: G/C/W/779, G/MA/W/151.

89 April 22. See WTO document: WT/GC/208, G/AG/30.

90 May 5. See WTO document: WT/GC/212.

growth; promote international trade, coordinate coping measures and avoid unnecessary disruptions to international trade; ensure that emergency measures are targeted, proportionate, transparent, and temporary; and guarantee cross-border mobility of vital medical equipment and agricultural products as well as other goods and services.⁹¹ The G20 Trade Minister eventually issued a statement pledging to notify the WTO of potential measures.⁹² The Agriculture Minister also issued a statement committing to safeguard global food security.⁹³

Besides statements of principles, the G20 Trade Minister has further announced nearly 40 short-term and long-term actions. These short-term actions are based on four aspects, i.e. trade control, trade promotion, transparency, and logistics networks. These involve emergency measures that are targeted, proportionate, transparent, and temporary; not introducing export restriction measures on agricultural products or humanitarian aid, expediting the implementation of the *WTO Agreement on Trade Facilitation* (particularly Article 7.1 “Pre-arrival Processing”, Article 7.3 “Separation of Release from Final Determination of Customs Duties, Taxes, Fees and Charges” and Article 7.8 “Expedited Shipments”), accelerating customs clearance procedures (use of electronic procedures encouraged), reducing quarantine and technical barriers (use of existing international standards encouraged), sharing medical supply information, expanding production capacity for medical equipment, promoting online services and electronic commerce, contributing to the recovery of basic cross-border travel, supporting international organizations in analyzing the impact of COVID-19 on the global agricultural product supply and sales chains as well as on food production and trade, sharing experience and designating contact persons, informing the WTO of practices, establishing sea-land-air connections, prioritizing transportation of essential materials in consultation with the private sector, transforming passenger planes into cargo planes, announcing management measures for vehicles, drivers, goods, passengers, and quarantine areas, and following international guidelines to facilitate sea transportation of goods. Long-term actions include three aspects, i.e. supporting the multilateral trading system,

91 March 26. See WTO website: https://www.wto.org/english/news_e/news20_e/dgra_26mar20_e.pdf (Last Visited on September 4, 2020).

92 March 30. See WTO website: https://www.wto.org/english/news_e/news20_e/dgra_30mar20_e.pdf (Last Visited on September 4, 2020).

93 April 21. See WTO website: https://www.wto.org/english/news_e/news20_e/igo_14apr20_e.htm; https://g20.org/en/media/Documents/G20_Agriculture%20Ministers%20Meeting_Statement_EN.pdf (Last Visited on September 4, 2020).

strengthening global supply chains, and promoting international investment. These include promoting necessary reform of the WTO to improve its functions; continually discussing how the G20 should support WTO measures such as the Riyadh Initiative on the Future of the WTO; reinforcing transparency; creating a free, fair, inclusive, non-discriminatory, transparent, predictable, and stable trade investment environment, and maintaining market openness; forging a commercial environment with fair competition; reiterating the importance of interactions between trade and the digital economy, further discussing joint statements on electronic commerce initiatives, temporary non-collection of electronic transmission tariffs, and the necessity for the WTO to resume electronic commerce negotiations; strengthening supply chains related to fighting the pandemic, expanding the capacities and trade of healthcare products; sharing experience in expanding capacity and trade when coping with global crises; reinforcing cooperation in electronic filing and other trade management; maintaining transparency of measures and market information useful to micro, small and medium-sized enterprises; promoting connections between multinational companies and micro, small and medium-sized enterprises; encouraging the establishment of free-will guidelines to facilitate necessary travel in the context of a global health crisis; sharing information regarding investment promotion to achieve sustainable development pursuant to the free-will *G20 Global Investment Policymaking Principles*; sharing experience with industries related to or affected by the pandemic; identifying key investment industries such as necessary medical equipment and sustainable agricultural production; expanding production capacity regarding healthcare products; reaching agreements with enterprises and investors for investment opportunities and activities, consulting with private enterprises to make foreign direct investment policies; and cooperatively implementing development of technical aid and abilities regarding promotion of investment in developing countries and least-developed countries.⁹⁴

In addition, other international organizations have expressed their stances. G7 leaders have declared their intention to rely on all possible means to support global trade and investment and to strengthen cooperation.⁹⁵ The Trade Minister of the Asia-Pacific Economic Cooperation (APEC) called for Members

94 May 14. See WTO website: https://www.wto.org/english/news_e/news20_e/igo_14may20_e.htm; https://g20.org/en/media/Documents/G20SS_Statement_G20%20Second%20Trade%20&%20Investment%20Ministerial%20Meeting_EN.pdf (Last Visited on September 4, 2020).

95 March 16. See WTO website: https://www.wto.org/english/news_e/news20_e/dgra_17mar20_e.htm; <https://www.whitehouse.gov/briefings-statements/g7-leaders-statement/> (Last Visited on September 4, 2020).

to strengthen cooperation and jointly build a healthy, strong, and inclusive Asia-Pacific community.⁹⁶

V. COMPLIANCE WITH TRADE RULES

A. Status Quo of the Multilateral Trading System

Founded in 1995 as an international organization specializing in administering Members' trade policies, the WTO is responsible for organizing negotiations, supervising implementation of policies and settling disputes. Specifically, trade rules are represented based on several agreements led by the *Marrakesh Agreement Establishing the World Trade Organization*, covering the three fields of trade in goods, trade in services and intellectual property rights (IPRs).⁹⁷ WTO principles include non-discriminatory trade (most-favored-nation treatment and national treatment), freer trade, predictability, fair competition, as well as encouraging development and economic reform.⁹⁸

In a report from July 2020, the WTO described the conditions of international trade and the multilateral trading system.⁹⁹ This report asserts that in previous years, the multilateral trading system as represented by the WTO has made important contributions to economic development. Certainty in trade policies has created predictability, which contributes towards long-term commercial planning and investment, while a recent erosion in predictability and certainty has highlighted the multilateral trading system's value. The value of international trade strongly recovered in 2017 and continued to increase in 2018, with the total value in goods and services reaching USD 24.5 trillion, accounting for a third of the global output. However, affected by tense trade relations and slowing economic growth, 2018 saw a slight decrease in the quantity of world commodity trade by 0.1% (having risen by 2.9% in 2017), while 2019 witnessed a decrease of world merchandise export by 3% to USD 18.89 trillion and a rise in world commercial service export by 2% to USD 6.03 trillion. Trade in services

96 May 5. See WTO website: https://www.apec.org/Meeting-Papers/Sectoral-Ministerial-Meetings/Trade/2020_trade (Last Visited on September 4, 2020). For statements by more organizations, see WTO website: https://www.wto.org/english/tratop_e/covid19_e/proposals_e.htm (Last Visited on September 4, 2020).

97 For profile of the WTO, see WTO website: https://www.wto.org/english/thewto_e/thewto_e.htm (Last Visited on September 4, 2020).

98 WTO publication: Understanding the WTO. See WTO website: https://www.wto.org/English/Thewto_E/whatis_e/tif_e/understanding_e.pdf (Last Visited on September 7, 2020).

99 WTO Contribution to the 2020 High Level Political Forum. See WTO website: https://www.wto.org/english/news_e/news20_e/sdgs_13jul20_e.htm; https://sustainabledevelopment.un.org/content/documents/26126WTO_HLPF_Input_2020.pdf (Last Visited on September 4, 2020).

increased by 9% in 2019, with the expansion speed somewhat slowing down. The report further explains that tense and uncertain trade relations have impacted possibilities for trade and may result in major changes in global value chains. In the past two years, national governments have adopted many trade restriction measures that have largely influenced international trade. From mid-October 2018 to October 2019, WTO Members implemented 102 new trade restriction measures. Although the number of measures was lower than the previous year, import restriction measures had affected trade amounting to USD 746.9 billion, a 27% increase and the highest level since October 2012. Various countries' measures included raising import tariffs, forbidding import and export, restricting quantity, imposing stricter customs procedures, as well as collecting import taxes and export tariffs. Finally, the report points out that the COVID-19 crisis has also materially influenced the global economy's supply and demand, while also inevitably and severely disrupting trade, particularly trade in services.

Regarding the multilateral trading system, the report indicates that WTO rules are important means for achieving inclusive trade and economic growth. A core principle of WTO rules is non-discrimination, i.e. most-favored-nation treatment and national treatment. Discrimination at will between WTO Members is forbidden for sharing the benefits of trade concessions. Currently, this system is facing challenges, including significantly increasing trade restriction measures, i.e. the "trade war". Moreover, the Appellate Body's suspended operation has weakened the WTO's dispute settlement function.

Overall, the WTO is an important organization that maintains international trade order, represents the multilateral trading system and stabilizes world economic development. However, after its foundation, the WTO has experienced difficulties in advancing negotiations on the formulation of new rules to adapt to world economic development.¹⁰⁰ Recently, particularly since the Trump Administration came to power in 2017, global trade wars that the United States has initiated have severely affected this system.¹⁰¹ As a part of the

100 The main reflection is that new-round negotiations have ended up in failure and the formulation of trade rules has not been able to keep pace with world economic development. For challenges confronting the WTO and WTO Members' reform proposals, see Yang Guohua, *Jungle Reappearing? The Rise and Fall of the WTO Appeal Mechanism*, People's Publishing House, May 2020, Edition 1, pp. 175-187.

101 The Trump Administration flagrantly imposed additional tariffs on imported products, particularly products from China, in violation of the WTO rules such as "most-favored-nation treatment". For trade wars that Trump initiated, see Chad P. Bown and Melina Kolb, *Trump's Trade War Timeline: An Up-to-date Guide*, PIIE website: <https://www.piie.com/blogs/trade-investment-policy-watch/trump-trade-war-china-date-guide>; <https://www.piie.com/sites/default/files/documents/trump-trade-war-timeline.pdf> (Last Visited on September 7, 2020).

dispute settlement mechanism, the appeal mechanism has experienced even more damage.¹⁰² Under these circumstances, COVID-19 broke out and has strongly impacted international trade, while it seems that the multilateral trading system is in danger. However, as mentioned above, various countries have pledged to comply with WTO rules. As a matter of fact, the trade measures mentioned above have not violated trade rules.

B. Trade Rules

As previously mentioned, non-discrimination is one of the WTO's core principles, including non-differential treatment for products from different countries as well as domestic and international products. During the pandemic, various countries have adopted export restriction measures, but there has been no dispute over differential treatment. In other words, no Member has accused another Member of adopting any measure against "most-favored-nation treatment" or "national treatment". Trade restriction measures mainly involve rules regarding "export restrictions" and "transparency", in addition to rules on quarantine, technology, governmental support, trade in services, and intellectual property rights.

1. Export Restrictions

In April 2020, a WTO report conducted a clear legal analysis of export restrictions.¹⁰³ This report points out that as a general rule, export prohibitions or restrictions are not allowed. Under the *General Agreement on Tariffs and Trade* (GATT), Article 11 is captioned "General Elimination of Quantitative Restrictions", of which Paragraph 1 provides that "no prohibitions or restrictions other than duties, taxes or other charges" shall be instituted or maintained by any contracting party.¹⁰⁴ Prohibited measures include quotas, import or export

102 Owing to the Trump Administration's obstruction of the Appellate Body's member selection, the Appellate Body stopped accepting new cases at the end of 2019. The Trump Administration's criticism on the Appellate Body mainly includes "ruling beyond authority", "following precedents", "factual law", "advisory opinions", "extended service" and "case hearing exceeding the time limit", compiled in United States Trade Representative, *Report on the Appellate Body of the World Trade Organization*, February 2020. See website of the Office of the United States Trade Representative: https://ustr.gov/sites/default/files/Report_on_the_Appellate_Body_of_the_World_Trade_Organization.pdf (Last Visited on August 6, 2020). See *Supra* n. 100, Yang Guohua (2020), pp. 141-154.

103 April 23. See WTO website: https://www.wto.org/english/news_e/news20_e/rese_23apr20_e.htm; https://www.wto.org/english/tratop_e/covid19_e/export_prohibitions_report_e.pdf (Last Visited on September 4, 2020).

104 "Other charges" indicate that this provision does not prohibit Members from implementing export taxes, but some Members committed to restrain or cancel export taxes when acceding to the WTO, and some others made commitments on export tariffs.

licenses or other measures, and the scope of application includes import and export. However, two exceptions to this rule are: “critical shortages” and “general exceptions”. Pursuant to Article 11.2, export prohibitions or restrictions can be temporarily applied to prevent or relieve critical shortages of foodstuffs or other essential products. Article 12 of the *Agreement on Agriculture* further provides that when taking measures, influence on the importing country’s food security should be duly considered, the WTO Agriculture Committee notified in advance, and requests sent to Members for consultation to provide further information. Additionally, Article 13 of GATT also stipulates that the principle of non-discrimination should be followed when implementing quantitative restrictions. Article 20 (General Exceptions) also allows for taking measures necessary to protect human, animal or plant life or health, provided that these measures shall not constitute means of arbitrary or unjustifiable discrimination, or a disguised restriction on international trade. The report shows that these provisions have been quoted in some Members’ notifications. This report does not mention that export restrictions can also cite GATT Article 21 “Security Exceptions”, i.e. the COVID-19 pandemic is categorized as an “emergency in international relations”. Of course, it is not arbitrary to quote this exception, but reasons must be given.¹⁰⁵

During the pandemic, no dispute over export restrictions has occurred between WTO Members, which can be interpreted as implying that these measures are all “legal” exceptions that do not exceed the scope of rule application.

2. Transparency

Transparency in trade policies is a general obligation under various WTO agreements, which can be divided into two aspects, i.e. domestic “announcement” and multilateral “notification”.¹⁰⁶ The previously mentioned report points out that at the domestic level, transparency aims to enable stakeholders to learn about government laws and regulations. The general rule is specified in Article 10.1 (Publication and Administration of Trade Regulations), requiring rapid publication of these measures to help other national governments and traders to learn about these laws and regulations. This obligation applies to import and export restrictions or prohibitions. Many agreements contain specific

¹⁰⁵ For relevant provisions, see *The General Agreement on Tariffs and Trade* on WTO website: https://www.wto.org/english/docs_e/legal_e/gatt47_e.pdf (Last Visited on September 7, 2020).

¹⁰⁶ For transparency provisions under various agreements, see the WTO report dated April 2020: *Transparency — Why It Matters at Times of Crisis*. See WTO website: https://www.wto.org/english/tratop_e/covid19_e/transparency_report_e.pdf (Last Visited on September 4, 2020).

regulations on transparency. For instance, the *Agreement on Trade Facilitation* requires Members to rapidly publish information in a non-discriminatory and accessible manner, with content covering import, export, and transshipment procedures, tariff and domestic tax rates, valuation and classification rules, etc.

At the multilateral level, the WTO Agreement requires Members to notify the Secretariat about all sorts of information to help other Members and stakeholders learn about it. It is required to notify the Secretariat about universally applicable laws and regulations, including certain actions and measures, particularly those affecting other Members' rights. Other Members' information requirements should be duly considered. Over the years, the WTO General Council and Council for Trade in Goods have reiterated these obligations based on their decisions. Moreover, after notifying others about this information, deliberations are usually carried out within different committees where other Members contribute comments and questions or require further information, with responses from Relevant Members. This may also involve "reverse" or "interactive notification" procedures during which other Members provide information or express "specific trade concerns" for other Members to provide clarifications. In the regional trade transparency mechanism, the WTO Secretariat is also responsible for reviewing and commenting on these notifications. In 2012, the WTO specifically made the *Decision on the Notification Procedures for Quantitative Restrictions (QR Decision)*,¹⁰⁷ requiring Members to notify the Secretariat about import and export quantitative restriction measures once every two years, including seasonal provisional measures, for deliberation with the Market Access Committee.

The WTO's notification efforts have not been satisfactory during the pandemic. Even though the WTO Director-General appealed,¹⁰⁸ and WTO Members held dedicated discussion meetings,¹⁰⁹ Members did not promptly notify the Secretariat about many measures, and the Secretariat had to proactively gather information and meet with Members.¹¹⁰

107 WTO document: G/L/59/Rev.1.

108 WTO website: https://www.wto.org/english/news_e/news20_e/dgra_24mar20_e.htm (Last Visited on August 29, 2020.)

109 WTO website: https://www.wto.org/english/news_e/news20_e/agri_28jul20_e.htm (Last Visited on August 29, 2020.)

110 WTO website: https://www.wto.org/english/news_e/news20_e/rese_23apr20_e.htm; https://www.wto.org/english/tratop_e/covid19_e/export_prohibitions_report_e.pdf; https://www.wto.org/english/news_e/news20_e/agri_28jul20_e.htm (Last Visited on August 31, 2020). See also Report of the TPRB from the Director-General on Trade-related Development (Mid-October 2019 to Mid-May 2020), WT/TPR/OV/W/14, July 10, 2020, pp. 10-11.

3. Other Rules

The above report analyzed export restrictions on trade in goods. In fact, as introduced in the earlier part entitled “Measures Adopted by Various Countries”, regarding trade in goods, quarantine, technology, and government support also involve WTO rules. Regarding quarantine, the *Agreement on the Application of Sanitary and Phytosanitary Measures* provides that quarantine measures should have scientific bases and be implemented within the necessary scope of protecting animals and plants’ health without being discriminatory and unfair, while quarantine procedures should be open. Regarding technology, the *Agreement on Technical Barriers to Trade* stipulates that regulations, standards, and certification procedures implemented for environmental protection and health purposes should not be unnecessary obstacles to trade or discriminatory, and that procedures certifying whether products meet standards should be just and open. Regarding government support, the *Agreement on Subsidies and Countervailing Measures* prescribes that subsidies should not adversely affect other Members’ industries, while export subsidies or import substitution subsidies should not be adopted.¹¹¹

Regarding trade in services, various countries’ measures restricting personnel exit and entry also involve the need to comply with trade in service commitment rules. For example, as mentioned above, the four modes of trade in service, “cross-border delivery”, “consumption abroad”, “commercial existence” and “natural person mobility” have all been affected. Of course, WTO Members can quote GATT Articles 20 and 21 “General Exceptions” and “Security Exceptions” (Article 14 of the *General Agreement on Trade in Services*).¹¹² Additionally, regarding intellectual property rights (IPRs), tension between IPRs and public health has become more noticeable. Flexibility in IPRs obligations as mentioned in the *Declaration on the TRIPS Agreement and Public Health* should be applied, e.g. allowing compulsory licensing and allowing countries to discretionally determine whether a national emergency has occurred.¹¹³

111 For these agreements, see WTO website: *Agreement on the Application of Sanitary and Phytosanitary Measures*, https://www.wto.org/english/docs_e/legal_e/15-sps.pdf; *Agreement on Technical Barriers to Trade*, https://www.wto.org/english/docs_e/legal_e/17-tbt.pdf; *Agreement on Subsidies and Countervailing Measures*, https://www.wto.org/english/docs_e/legal_e/24-scm.pdf (Last Visited on September 9, 2020.)

112 *General Agreement on Trade in Services*, WTO website: https://www.wto.org/english/docs_e/legal_e/26-gats.pdf (Last Visited on September 7, 2020).

113 For the Declaration, see WTO website: https://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_trips_e.pdf (Last Visited on September 5, 2020). TRIPS refers to the *Agreement on Trade-related Aspects of Intellectual Property Rights*. For intellectual property rights and public health, see WTO website: https://www.wto.org/english/tratop_e/trips_e/pharmpatent_e.htm (Last Visited on September 5, 2020).

Concerning the aforesaid various rules, there have been no disputes between WTO Members, which means that all countries have understood the measures' necessity. In particular, regarding IPRs, some Members have developed and disseminated pandemic-related health technologies, relaxed procedural requirements, and extended terms of administrative procedures while each right holder has agreed to adopt these measures to share IPRs and support the R&D of and access to health technologies.¹¹⁴

VI. IMPROVEMENT OF THE TRADING SYSTEM

As indicated in the WTO report from July 2020, the COVID-19 pandemic is a public health crisis that has presented an unprecedented challenge to the world. Various countries' emergency measures designed to prevent the spread of diseases have objectively influenced the world economy and trade, including their influence on global supply chains for producing and selling medical supplies, foodstuffs, energy, and other necessities. As an international organization, the WTO's measures have six focuses. First, like all governments, companies, or organizations, it ensures the safety of its Members and employees to enable continuous work. The WTO has adopted many measures that include cancelling its ministerial conference scheduled in June 2020. Second, it provides an international cooperation framework to enable Members to consider measures for coping with the crisis. Various WTO agreements are frameworks for designing trade policies. Regulations on coping with extreme situations are flexible, but emergency measures should be pertinent, provisional, and transparent. The WTO should become a venue of discussion and cooperation. Some Members have adopted macroscopic economic measures, e.g. fiscal stimulus plans as well as tax reduction and exemption schemes, along with money supply and interest rate measures that central banks have adopted. The WTO is tracing developments in each situation related to the pandemic. Third, it notifies its Members about these measures' influence on world trade. Fourth, it has explicitly explained that WTO Members have extensive freedom in adopting necessary and active measures to cope with the crisis. For example, Members can freely lower or cancel tariffs on any products such as daily necessities. They can also adopt measures to ensure public health and security, provided that they follow certain rules and do not implement any unnecessary

114 Report of the TPRB from the Director-General on Trade-related Development (Mid-October 2019 to Mid-May 2020), WT/TPR/OV/W/14, July 10, 2020, p. 9.

restrictions on trade. Members can also adopt subsidy measures that align with WTO rules as well as flexible drug-related measures as mentioned in the *Agreement on Trade-related Aspects of Intellectual Property Rights* to increase the supply of medical products. Fifth, it adopts coordinated coping measures. For instance, some Members have adopted measures to safeguard trade mobility. Sixth, it ensures ongoing negotiations, especially those concerning electronic commerce and fisheries subsidies. At its end, the report indicates that throughout the multilateral trading system's history, the COVID-19 pandemic has created an unprecedented situation and an unprecedented level of international cooperation is necessary to cope with it. The multilateral trading system is an ideal venue for cooperation. As a matter of fact, this mechanism has been established to cope with complicated, multi-faceted, and global emergencies.

The report summarizes measures that the WTO has already completed and will eventually complete. Based upon initial experience, the WTO certainly has potential to demonstrate better performance. However, it should be pointed out that the WTO is a “member-driven” organization and the Secretariat's rights stem from WTO Members. Having experienced the pandemic, WTO Members must have gained new knowledge about the Secretariat's responsibilities and should vest it with more and greater responsibilities, particularly regarding trade policy supervision.¹¹⁵ More importantly, the WTO is comprised by Members whose behavior decides the state of the trading system. Members' measures to cope with the pandemic have not resulted in any disputes, but multilateral notifications have been unsatisfactory and must be improved. WTO Members should summarize their lessons and consider measures for improvement, e.g. establishing a universal “reverse notification” system.¹¹⁶

The Secretariat's responsibilities and notification of measures involve

115 For example, the EU suggests that the Secretariat should have the power to conduct qualitative evaluations on WTO Members' notifications. For the EU's WTO reform scheme, see the website of the European Commission: https://trade.ec.europa.eu/doclib/docs/2018/september/tradoc_157331.pdf (Last Visited on December 22, 2019).

116 Regarding notifications, on March 29, 2019, the United States, together with 8 other Members such as Canada, the EU and Japan, made a proposal with the WTO. The document suggests on encouraging the adoption of reverse reporting measures while adopting administrative measures against Members who have failed to perform their notification obligations, including relevant Members being unable to act as organization chairmen, other Members not to reply to their queries during trade policy deliberations, increasing membership fee, and the Secretariat reporting to relevant councils and particularly to the General Council. Should relevant Members still fail to perform their obligations, they can be defined as Members delaying notifications who should be the last to be seated in official WTO meetings and be named at General Council meetings. See WTO document: JOB/GC/204/Rev.1; JOB/CTG/14/Rev.1.

revising the system, which requires formulating new rules. Even though these rules are procedural, WTO Members must make them after consultation and consensus. The pandemic has certainly triggered many issues with substantive rules. Particularly, the rise of online services, development of electronic commerce, and relation between IPRs and public health have created new demand for rules, making it necessary to update existing rules and increasing the urgency of continuing current negotiations.¹¹⁷ More importantly, the pandemic has highlighted the multilateral trading system's importance. A lack of the WTO Secretariat's efforts and Members' compliance with rules could have led to unimaginable consequences. Hence, it is even more vital to maintain, strengthen, and develop this system. As previously mentioned, the G20 has explicitly indicated its support for this system and its decision to promote necessary WTO reforms to improve its functions. In fact, businesspeople have also praised the WTO's leading trade role, calling on WTO Members to continue negotiations and formulate new rules.¹¹⁸

VII. CONCLUSION

The WTO Deputy Director-General Alan Wolff summarized the WTO's measures to cope with the pandemic in a speech stressing the multilateral trading system's crucial role. About 65 million years ago, the dinosaurs that had populated the earth became extinct. One theory is that a huge asteroid hit the earth and a dust cloud filled the atmosphere, choking the dinosaurs to death. The

117 During the pandemic, the topic of WTO Members' discussion over online services is how a government helps enterprises and consumers improve digital ability and reduce digital gaps, including how to provide assistance to micro, small and medium-sized enterprises and developing countries so as to increase their shares in service export. Members have also discussed concerns about transparency, 5G communication networks, pre-installed software, satellite operators and network security (See WTO website: https://www.wto.org/english/news_e/news20_e/serv_01jul20_e.htm). The WTO Secretariat's report on electronic commerce during the pandemic points out that during the pandemic, demands for e-commerce have increased and there have been great gaps between countries. As such, international cooperation needs to be strengthened so as to promote the development of online purchase and sale policies (See WTO website: https://www.wto.org/english/news_e/news20_e/rese_04may20_e.htm; https://www.wto.org/english/tratop_e/covid19_e/ecommerce_report_e.pdf); WTO Members' discussions over IPRs and public health involve the WTO's significant role in encouraging IPRs innovation and vaccine R&D and access, so as to make IPRs regulations more effective when it comes to protecting public health. Technological transfer to least-developed countries has also been discussed at the meetings. (See WTO website: https://www.wto.org/english/news_e/news20_e/trip_30jul20_e.htm). The above websites were last visited on September 7, 2020.

118 See the trade dialogue between the International Chamber of Commerce (ICC) and B20 at the WTO on May 19, 2020. See WTO website: https://www.wto.org/english/news_e/news20_e/trdia_19may20_e.htm; https://www.wto.org/english/news_e/news20_e/trdia_19may20_e.pdf (Last Visited on September 6, 2020).

causes of the dinosaurs' extinction may be a bit more complicated, but people generally believe that the dinosaurs lacked several key attributes that might have helped them survive. They were not known for their advanced planning capabilities. In fact, their thought processes may have been generally very limited and slow. Their social organization was characterized by an apparent lack of care for other dinosaur species. In short, they lacked the ability to create an effective collective response to their predicament. Untold thousands of millennia later, humans are facing a serious crisis. If not collectively existential, it is nevertheless extremely serious.¹¹⁹

In his speech, Wolff introduced many coping measures being adopted as well as countermeasures and suggestions.¹²⁰ During this paper's research period, i.e. from the beginning of 2020 to August 2020, when faced with this ferocious pandemic, the multilateral trading system has withstood challenges, while WTO Members and the Secretariat have produced active and effective effort. They have cooperated sincerely towards maintaining trade rules, and contributed to providing supplies that have been indispensable for fighting the pandemic and maintaining international trade, thus demonstrating how humans' collective traits distinguish them from other species. Based on this experience, we are fully confident about the global economic recovery and very hopeful for the multilateral trading system's future.

119 April 1. See WTO website: https://www.wto.org/english/news_e/news20_e/ddgaw_01apr20_e.htm (Last Visited on September 6, 2020).

120 These suggestions come from ICC and other non-government organizations, as well as renowned experts such as Simon Evenett, Wendy Cutler, Jennifer Hillman and Anabel Gonzalez, concerning emergency coping measures and support to the multilateral trading system. Some experts' opinions are compiled in the following work: Richard E. Baldwin and Simon J. Evenett (eds.), *COVID-19 and Trade Policy: Why Turning Inward Won't Work*, A VoxEU.org Book, CEPR Press, 2020, <https://graduateinstitute.ch/sites/internet/files/2020-04/Covid-19%20and%20trade%20policy%2029%20April%202020.pdf> (Last Visited on September 9, 2020). In the speech delivered on June 17, he summed up 12 pandemic-coping suggestions, including increasing transparency and enhanced monitoring by the Secretariat; crafting guidance on export controls; prioritizing subsidization to the domestic market, and pre-emptive government purchasing and investment while formulating special disciplines; taking into account the poorest countries when allocating scarce necessities rather than leaving it solely to market forces; considering the effect on other countries of applying the export restriction measures; prematurely announcing export restrictions before implementation and timely consulting with other Members; including a sunset clause in any restrictions and gradually cancelling current restrictions; developing a guidance on sharing scarce medical supplies, including vaccines; broadly implementing tariff liberalization, not just for medical supplies; Creating an Emergency Task Force; Members' suggestions should gain broader Member support; and establishing a Long-range Policy Planning Network. Moreover, he made three suggestions on promoting economic recovery, i.e. lowering the costs of trade by lowering tariffs and other impediments to trade broadly; accelerating the implementation of the *Trade Facilitation Agreement*, and working with international financial institutions and banks to foster the restoration of trade finance. See WTO website: https://www.wto.org/english/news_e/news20_e/ddgaw_18jun20_e.htm (Last Visited on September 1, 2020).