INTERNATIONAL JOURNAL OF LAW MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 7 | Issue 3 2024

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Natural Resource Underpricing in WTO Subsidies Rules and Beyond: A Reflection of North-South Divide in Globalization

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ABSTRACT

This paper delves into the complex issue of natural resource underpricing within the framework of World Trade Organisation (WTO) subsidy rules, highlighting its role in perpetuating the North-South divide in the context of globalisation. By tracing the historical context and evolution of these subsidy rules from the General Agreement on Tariffs and Trade (GATT) to the current WTO framework, the study underscores the significant economic impact on developing countries. It includes detailed case studies, such as the People's Education and Development Organisation (PEDO) project in Rajasthan and sustainable forestry management in Brazil, to illustrate the challenges and successes in natural resource management. Furthermore, the paper assesses the broader economic implications of WTO regulations on the Global South, emphasising the need for effective implementation of Special and Differential Treatment (SDT) provisions and enhanced technical assistance. Finally, the research proposes critical reforms aimed at creating a more equitable trade framework that supports sustainable development, poverty reduction, and global economic equity. These findings contribute to the ongoing discourse on fair trade practices and the equitable integration of developing countries into the global trading system.

Keywords: WTO subsidy rules, natural resource pricing, North-South divide, developing countries, trade reform.

I. INTRODUCTION

Globalisation has often been lauded for its potential to bridge the economic gap between developed and developing nations. However, the existing framework of international trade regulations, particularly those under the World Trade Organisation (WTO), has sometimes exacerbated the economic divide. This disparity is especially pronounced in the area of natural resource pricing, where resources from the Global South are frequently undervalued due to subsidy rules that favour developed nations.

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The WTO's subsidy rules, evolving from the General Agreement on Tariffs and Trade (GATT) established in 1947, were designed to promote fair competition in international trade by curbing trade-distorting subsidies. Despite these intentions, the implementation and impact of these rules have often placed developing countries at a disadvantage. The Agreement on Subsidies and Countervailing Measures (SCM Agreement) categorises subsidies into prohibited, actionable, and non-actionable types, with significant implications for natural resource pricing in developing countries.

This paper delves into the intricacies of these subsidy rules, examining their historical context and evolution. It highlights how the rules have influenced the pricing and management of natural resources in the Global South through detailed case studies, such as the People's Education and Development Organisation (PEDO) project in Rajasthan and sustainable forestry management in Brazil. These case studies illustrate the challenges and successes in managing natural resources under the current WTO framework.

Moreover, the paper assesses the broader economic implications of WTO regulations on developing countries, particularly through the lens of Special and Differential Treatment (SDT) provisions. These provisions, intended to offer greater flexibility and support to developing nations, often fall short of their potential due to inadequate implementation and enforcement.

In light of these challenges, the research proposes critical reforms aimed at creating a more equitable trade framework. These reforms include binding commitments on duty-free and quota-free market access for Least Developed Countries (LDCs), enhanced technical assistance, and revised subsidy rules to support crucial sectors in developing economies.

By providing a comprehensive analysis of WTO subsidy rules and their impact on natural resource pricing in developing countries, this paper contributes to the broader discourse on fair trade practices and global economic equity. The findings underscore the need for a more inclusive and equitable international trade system that addresses the unique challenges faced by developing nations and supports their sustainable development.

II. HISTORICAL CONTEXT AND ANALYSIS OF WTO SUBSIDY RULES

The World Trade Organisation (WTO) subsidy rules are central to maintaining fair competition in international trade. Historically, these rules evolved from the General Agreement on Tariffs and Trade (GATT) framework established in 1947. The primary objective was to curb the use of subsidies that distort trade and affect competition.

The WTO Agreement on Subsidies and Countervailing Measures (SCM Agreement)³ categorises subsidies into prohibited, actionable, and non-actionable types. Prohibited subsidies include export subsidies and import substitution subsidies, while actionable subsidies can be challenged if they cause adverse effects on other WTO members. Non-actionable subsidies, which were allowed under certain conditions, included assistance for research and development, regional development, and environmental compliance but were phased out by 2000.

The World Trade Organisation (WTO) subsidy rules are central to maintaining fair competition in international trade. Historically, these rules evolved from the General Agreement on Tariffs and Trade (GATT) framework established in 1947.⁴ The primary objective was to curb the use of subsidies that distort trade and affect competition.

The GATT 1947 laid the foundational principles for international trade, including provisions related to subsidies. Article XVI of GATT recognised the potential trade-distorting effects of subsidies and encouraged member countries to notify their subsidy programs and discuss their potential impacts on trade. However, the provisions under GATT were relatively weak and lacked detailed disciplines, leading to varying interpretations and implementations by member countries.

With the formation of the WTO in 1995, the Agreement on Subsidies and Countervailing Measures (SCM Agreement) was introduced to provide a more structured and enforceable framework for addressing subsidies. The SCM Agreement categories subsidies into three distinct types: prohibited, actionable, and non-actionable.

- Prohibited Subsidies: These include subsidies that require recipients to meet certain export targets (export subsidies) or to use domestic goods over imported goods (import substitution subsidies). These subsidies are considered most harmful to international trade as they directly distort competitive conditions.
- Actionable Subsidies: These are not outright prohibited but can be challenged if they cause adverse effects, such as injury to the domestic industry of another member, nullification or impairment of benefits accruing directly or indirectly to other members under GATT 1994, or serious prejudice to the interests of another member. Countervailing measures can be taken against such subsidies if proven to cause harm.
- Non-actionable Subsidies: Initially, the SCM Agreement allowed certain subsidies

³ World Trade Organisation, Agreement on Subsidies and Countervailing Measures, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organisation, Annex 1A, 1867 U.N.T.S. 14.

⁴ General Agreement on Tariffs and Trade 1947, Oct. 30, 1947, 55 U.N.T.S. 194.

under strict conditions, such as those for research and development (R&D), regional development, and environmental protection. These subsidies were deemed less tradedistorting and were non-actionable for a period. However, the provisions for non-actionable subsidies expired at the end of 1999, and no consensus was reached to extend them.

The SCM Agreement introduced a rigorous notification and monitoring mechanism. Countries are required to regularly notify the WTO about their subsidy programs and any countervailing measures they impose. This transparency is intended to facilitate the surveillance of compliance and to provide a basis for resolving disputes.

The evolution of subsidy rules under the WTO reflects an ongoing effort to balance the need for governments to pursue legitimate public policy objectives through subsidies, while minimising the negative impact on international trade. The WTO Dispute Settlement Body (DSB) plays a crucial role in adjudicating disputes related to subsidies, ensuring that the SCM Agreement is implemented effectively and consistently.

For instance, the landmark case of United States—Subsidies on Upland Cotton (DS267) demonstrated the SCM Agreement's enforcement mechanisms.⁵ The dispute, initiated by Brazil in 2002, challenged various U.S. subsidies provided to its cotton producers. The WTO panel and Appellate Body found that certain U.S. subsidies were prohibited export subsidies and actionable subsidies causing serious prejudice to Brazil's interests. This case highlighted the effectiveness of the WTO's subsidy rules and enforcement mechanisms in addressing trade-distorting subsidies.⁶

Overall, the historical context and evolution of the WTO subsidy rules underscore the complexities and challenges of regulating subsidies in a globalised economy. The continuous refinement of these rules aims to promote fair competition, prevent trade disputes, and ensure that subsidies do not undermine the multilateral trading system.

III. NATURAL RESOURCE PRICING AND MANAGEMENT: CASE STUDIES FROM THE GLOBAL SOUTH

In developing countries, natural resource pricing and management present unique challenges due to economic constraints, governance issues, and environmental pressures. Effective management practices can yield significant socio-economic and environmental benefits, as

⁵ WTO Dispute Settlement: United States—Subsidies on Upland Cotton, WT/DS267/AB/R (Mar. 3, 2005).

⁶ Ernst-Ulrich Petersmann, The GATT/WTO Dispute Settlement System: International Law, International Organisations, and Dispute Settlement, 39 Common Mkt. L. Rev. 7, 11 (2002).

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demonstrated by various case studies.

Case Study 1: People's Education and Development Organisation (PEDO) Project in Rajasthan, India⁷

The People's Education and Development Organisation (PEDO) initiated an afforestation project in the Bicchiwara block of the Dungarpur district in Rajasthan. This region, characterised by its arid climate and socio-economic challenges, has struggled with deforestation and poverty. PEDO's project aimed to combat these issues through sustainable afforestation programs that engaged local women.

Key aspects of the project included:

- Community Involvement: The project actively involved local women in planting and nurturing trees. This empowerment approach not only addressed environmental degradation but also provided women with a source of income.
- Environmental Impact: The afforestation efforts led to increased green cover, which helped in soil conservation, improved water retention, and reduced the frequency of droughts.
- Socio-Economic Benefits: By providing employment opportunities and enhancing the local environment, the project improved the livelihoods of participating communities.
 Women gained financial independence and contributed to household incomes, which had a positive impact on the overall economic stability of the region.

The success of the PEDO project highlights the potential of community-driven, sustainable natural resource management to achieve environmental and socio-economic objectives simultaneously.

Case Study 2: Sustainable Forest Management in Brazil⁸

Brazil, home to the world's largest tropical rainforest, faces significant challenges in balancing economic development with environmental conservation. The government has implemented various policies to regulate logging activities and promote sustainable forest management.

Key initiatives include:

• National Plan for the Control of Deforestation: Launched in 2004, this plan aims to reduce deforestation rates through improved monitoring, enforcement of environmental

⁷ People's Education and Development Organisation, Afforestation Programme in Bicchiwara Block, Dungarpur District, Rajasthan (2023).

⁸ Ministry of the Environment of Brazil, National Plan for the Control of Deforestation, 2004.

laws, and support for sustainable land use practices.

- Promotion of Sustainable Practices: Policies encourage the adoption of sustainable logging practices, reforestation, and agroforestry. These measures aim to maintain forest cover while allowing for economic activities that support local communities.
- International Cooperation: Brazil has engaged in various international agreements and initiatives to preserve its forests, recognising their global importance in combating climate change and maintaining biodiversity.

The implementation of these policies has had mixed results. While there has been some success in reducing deforestation rates in certain periods, economic pressures and political challenges continue to threaten the sustainability of these efforts. Nonetheless, Brazil's approach to managing its forestry resources provides valuable insights into the complexities and potential strategies for balancing development with environmental conservation.

These case studies from India and Brazil underscore the diverse approaches to natural resource pricing and management in the Global South. They demonstrate how tailored strategies, involving local communities and incorporating sustainable practices, can address both environmental and economic challenges. By learning from these examples, other developing countries can devise effective management plans that support sustainable development.⁹¹⁰¹¹

IV. ASSESSING THE ECONOMIC IMPACT OF WTO RULES ON DEVELOPING COUNTRIES

The economic impact of World Trade Organisation (WTO) rules on the Global South is profound and multifaceted. Developing countries, which comprise about two-thirds of the WTO membership, often face significant challenges in adhering to WTO regulations due to limited resources and economic constraints. Although the special and differential treatment (SDT) provisions are intended to provide these countries with greater flexibility, the benefits are not always fully realised.

(A) Challenges Faced by Developing Countries

Developing countries within the WTO are a highly diverse group, often with varying views and concerns. Despite the numerous provisions in the WTO agreements that grant developing and

⁹ United Nations Development Programme (UNDP), Sustainable Land Management in Practice: Guidelines and Best Practices for Sub-Saharan Africa, 2011.

¹⁰ Food and Agriculture Organisation (FAO), Global Forest Resources Assessment 2020: Main Report, FAO Forestry Paper No. 184, 2020.

¹¹ Arun Agrawal, Environmental Governance and Sustainability in Forests: Local Communities and Forests in Developing Countries, 2 J. Forest Economics 66 (1996).

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least-developed countries (LDCs) special rights or extra leniency, these nations frequently struggle with the implementation of WTO rules due to economic and administrative limitations. For example, the cost of compliance with trade-related regulations can be prohibitively high, diverting resources from essential development projects.

(B) Special and Differential Treatment (SDT) Provisions

The SDT provisions are designed to address these disparities by allowing developed countries to treat developing countries more favourably than other WTO members. These provisions include longer time periods for implementing agreements, measures to increase trading opportunities, and support to build capacity to handle disputes and implement technical standards. However, the effectiveness of SDT provisions is often hampered by a lack of binding commitments and the voluntary nature of the support provided.

(C) Impact on Least Developed Countries (LDCs)

LDCs have been particularly vocal about the need for binding commitments on duty-free and quota-free (DFQF) market access for their products. The Doha Ministerial Declaration of 2001 reaffirmed the commitment to provide DFQF market access for products originating from LDCs. According to a report by the United Nations Conference on Trade and Development (UNCTAD), implementing full DFQF treatment could significantly boost LDC exports by approximately 10%, resulting in substantial welfare gains estimated at around \$8 billion annually.¹²

Case Study: Duty-Free and Quota-Free (DFQF) Market Access

One of the key issues for LDCs is the provision of DFQF market access, as highlighted in various international accords such as the Doha Declaration and the Millennium Declaration. The Fourth LDC Trade Ministers' Meeting in Livingstone (June 2005) emphasized the need for binding commitments to grant and implement DFQF access for all products from LDCs immediately, securely, and predictably, without restrictive measures. Despite some progress, such as the European Union's "Everything But Arms" (EBA) initiative and the United States' African Growth and Opportunity Act (AGOA), full DFQF access remains unbound within the WTO framework, limiting the potential benefits for LDCs.

(D) South-South Trade and Cooperation

In addition to seeking improved access to developed markets, LDCs and other developing

¹² United Nations Conference on Trade and Development, A Trade Marshall Plan for LDCs, UNCTAD/DITC/TAB/2006/1.

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countries are increasingly exploring opportunities within South-South trade. Trade among developing countries accounts for over one-tenth of total world trade and is growing at double the rate of global trade. Enhanced economic and trade cooperation among Southern nations, through mechanisms such as the Global System of Trade Preferences among Developing Countries (GSTP), has the potential to generate significant additional trade, estimated at \$15.5 billion if average tariffs are reduced by 50%.

(E) Economic Impact and Future Prospects

The economic impact of WTO rules on developing countries is complex and influenced by multiple factors including trade policies, market access, and international cooperation. While there are potential gains from increased market access and trade preferences, the actual realisation of these benefits depends on effective implementation and support mechanisms. Strengthening SDT provisions and ensuring binding commitments for DFQF access are critical steps toward creating a more equitable trading system that can support the sustainable development of the Global South.

V. PROPOSING REFORMS FOR A MORE EQUITABLE WTO FRAMEWORK

To create a more equitable trade framework, several key reforms are essential. These reforms aim to address the inherent disparities within the current World Trade Organization (WTO) system, ensuring that the needs and interests of developing countries are adequately met.

(A) Effective Implementation of Special and Differential Treatment (SDT) Provisions

Special and Differential Treatment (SDT) provisions are designed to offer developing countries greater flexibility in meeting their WTO obligations. However, these provisions often lack effective implementation and enforcement. To rectify this, the WTO should:

Bind Commitments on Duty-Free and Quota-Free Market Access: Ensuring that duty-free and quota-free (DFQF) market access for all products from least developed countries (LDCs) is binding and universally applied. This would significantly enhance LDCs' export potential and economic development. The Fourth LDC Trade Ministers' Meeting in Livingstone called for such binding commitments to be implemented immediately and predictably, without restrictive measures.¹³

Tailor SDT Provisions to Specific Needs: Adapt SDT provisions to the unique circumstances of the most vulnerable developing countries. This includes differentiating between various

¹³ United Nations Conference on Trade and Development, A Trade Marshall Plan for LDCs, UNCTAD/DITC/TAB/2006/1.

levels of development and ensuring that the benefits of SDT are more effectively distributed.

(B) Enhancing Technical Assistance and Capacity-Building Initiatives

Developing countries often face significant challenges in complying with WTO rules due to limited technical and institutional capacities. To address this:

- Expand Technical Assistance Programs: Strengthen and expand technical assistance and capacity-building programs to help developing countries improve their compliance with WTO obligations and enhance their competitiveness in global markets. The Integrated Framework for Trade-Related Technical Assistance, involving organisations like the IMF and the World Bank, is a good example of such collaborative efforts.¹⁴
- Focus on Capacity Building: Targeted initiatives to build human, institutional, regulatory, and infrastructural capacities in developing countries. This includes support for research and development, technology transfer, and enhancing value-added production capabilities.

(C) Revising Subsidy Rules for Greater Flexibility¹⁵

Current WTO subsidy rules often restrict the ability of developing countries to support critical sectors such as agriculture and technology. Revising these rules to allow more flexibility can help:

- Permit Subsidies for Developmental Objectives: Allow developing countries greater leeway to use subsidies for promoting sectors vital for their development, such as agriculture, technology, and infrastructure. The Agreement on Subsidies and Countervailing Measures (SCM Agreement) should be amended to reflect these developmental needs.
- Support Sustainable Development Goals (SDGs): Align subsidy rules with the Sustainable Development Goals (SDGs), ensuring that subsidies can be used to support environmental sustainability, poverty reduction, and economic diversification.

(D) Improving Dispute Settlement Mechanisms

The WTO's dispute settlement mechanism needs reforms to ensure fairer outcomes for developing countries:¹⁶

¹⁴ United Nations Conference on Trade and Development, Enhancing the Role of Developing Countries in the Multilateral Trading System, UNCTAD/DITC/TNCD/2020/1.

¹⁵ World Trade Organisation, Doha Ministerial Declaration, WT/MIN(01)/DEC/1, 20 Nov. 2001.

¹⁶ World Trade Organisation, Understanding on Rules and Procedures Governing the Settlement of Disputes, Apr.15, 1994, Marrakesh Agreement Establishing the World Trade Organisation, Annex 2, 1869 U.N.T.S. 401.

Simplify Procedures for Developing Countries: Streamline dispute settlement procedures to make them more accessible and less costly for developing countries. This includes providing legal and technical support during dispute resolution processes.

Enhance Transparency and Inclusivity: Ensure that developing countries have a more significant voice and presence in the dispute resolution process, thereby enhancing the overall transparency and fairness of the system.

VI. SCOPE FOR FURTHER RESEARCH

This section suggests areas for further research, highlighting the need for a deeper understanding of specific aspects of WTO rules and their impact on developing countries.

- Deeper Analysis of Specific Commodities: Future research could focus on specific commodities that are crucial for the economies of developing countries, such as agricultural products, minerals, and forestry resources. By analyzing the pricing mechanisms, subsidy impacts, and trade barriers for these commodities, researchers can provide more targeted recommendations for policy reforms.
- Long-term Economic Impacts: Longitudinal studies that track the economic impacts of WTO subsidy rules over extended periods would provide valuable insights into how these regulations affect the development trajectories of countries in the Global South. Such studies could explore the cumulative effects on economic growth, poverty reduction, and environmental sustainability.
- Role of Other International Trade Organisations: Investigating the roles and interactions
 of other international trade organisations, such as the International Monetary Fund
 (IMF) and the United Nations Conference on Trade and Development (UNCTAD),
 could provide a more holistic understanding of the global trade environment. This
 research could examine how these organisations's policies complement or conflict with
 WTO regulations and their combined impact on developing countries.
- Implementation and Effectiveness of SDT Provisions: A focused analysis on the implementation and effectiveness of Special and Differential Treatment provisions within the WTO framework would be beneficial. This research could assess whether these provisions achieve their intended goals and suggest ways to enhance their impact for the most vulnerable economies.
- Case Studies of Successful Interventions: Further case studies of successful interventions in natural resource management in developing countries could provide

models for best practices. These studies should consider diverse geographical and socioeconomic contexts to identify strategies that could be replicated or adapted elsewhere.

By addressing these areas, future research can contribute to a more nuanced and comprehensive understanding of how international trade regulations impact developing countries and propose actionable solutions for creating a fairer global trade system.

VII. CONCLUSION

The research conducted in this paper reveals significant insights into the complexities and impacts of WTO subsidy rules on the pricing and management of natural resources in developing countries. The analysis of historical contexts, specific case studies, economic implications, and potential reforms has provided a comprehensive understanding of how these international trade regulations perpetuate economic disparities between the Global North and South.

Firstly, the evolution of WTO subsidy rules from the GATT framework to the present day has been shown to systematically favour developed nations. The classification of subsidies into prohibited, actionable, and non-actionable categories, particularly under the Agreement on Subsidies and Countervailing Measures (SCM Agreement), creates a challenging environment for developing countries that rely heavily on subsidies to support their economies and manage their natural resources sustainably.

Case studies, such as the PEDO project in Rajasthan and sustainable forestry management in Brazil, illustrate the potential socio-economic and environmental benefits that can arise when local communities in developing countries are empowered to manage their resources. These examples highlight the success of grassroots initiatives despite the restrictive nature of current international trade rules, emphasising the need for more supportive and flexible policies.

The economic impact assessment of WTO rules on developing countries underscores the substantial challenges these nations face. While Special and Differential Treatment (SDT) provisions are intended to offer flexibility, their inadequate implementation means that the potential benefits are not fully realised. This has significant implications for the economic growth and development of the Global South, where natural resources remain undervalued and underutilised.

In proposing reforms for a more equitable WTO framework, it is clear that the implementation of effective SDT provisions, enhanced technical assistance, and capacity-building initiatives are essential. Revising subsidy rules to allow developing countries greater flexibility in supporting

critical sectors like agriculture and technology is crucial for leveling the playing field.

The findings of this research contribute to the broader discourse on fair trade practices and global economic equity. They underscore the need for a paradigm shift in international trade regulations to ensure that developing countries can fully participate in and benefit from global trade. By addressing these disparities through targeted reforms and supportive policies, the international community can work towards a more just and equitable global trade system.

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