

## БҮС НУТГИЙН ЭДИЙН ЗАСГИЙН ХАМТЫН АЖИЛЛАГААН ДАХЬ ОЛОН ТАЛТ БОЛОН БҮСИЙН ХУДАЛДААНЫ СИСТЕМИЙН НӨЛӨӨЛӨЛ

### INFLUENCE OF INTERACTION BETWEEN MULTILATERAL AND REGIONAL TRADING SYSTEM ON REGIONAL ECONOMIC COOPERATION

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Товч агуулга: Тогтвортой худалдааны дэг журмыг тогтооход олон талт худалдааны систем хэрэгцээ шаардлагатай байна. Орчин цагт олон талт худалдааны систем нь зөвхөн Дэлхийн Худалдааны Байгууллага (ДХБ)-ын Хэлэлцээрт тулгуурладаггүй бөгөөд олон талт худалдааны эрх зүйн бусад хэлбэрт ч бий. Бүс нутгийн эдийн засгийн худалдаа болон олон талт худалдааны систем нь харилцан хамааралтай. Эдүгээ бүс нутгийн эдийн засаг, худалдаа улам бүр өргөжин нээлттэй бүсийн эдийн засгийн үр дүнд олон талт худалдаа хөгжиж байна. Ялангуяа, сүүлийн жилүүдэд бүс нутгийн эдийн засгийн үйл ажиллагааны цар хүрээ улам бүр тэлэх боллоо.

ДХБ-ын бодлогын тэргүүн чиглэл болдог чөлөөт худалдааны ойлголт нь дэлхийн олон талт худалдааны үндсэн суурь баримтлал боловч дэлхийн эдийн засгийн болон худалдааны тэгш бус байдлыг шийдвэрлэж чадахгүй байна. Иймээс бүс нутгийн худалдаанд зах зээлээ нээж эхэлсэн улс орнууд төдийгүй тэнцвэргүй олон талт худалдааны системтэй бүс нутагт хэрхэн улс орнуудын зах зээлийг нээх, хөгжүүлэх асуудлаар судалгаа хийх шаардлагатай байна.

Энэхүү өгүүлэлд олон талт худалдааны систем нь глобал худалдааны асуудал бүхий эрх зүйн хэм хэмжээгээр шийдвэрлэгддэг учраас өргөн хүрээтэй ДХБ-ын системийг бүсийн худалдааны дүрмээр зохицуулах боломжгүй гэсэн санааг илэрхийллээ.

Өнөөгийн байдлаар олон талт худалдааны системийн хөгжил бүс нутгийн худалдаанд нөлөөлдөг хэвээрээ байгаа юм. Энэ хугацаанд бүс нутгийн эдийн засгийн болон худалдааны хамтын ажиллагааны эрх зүйн механизм нь олон талт худалдааны хөгжлийн чиг хандлагад нийцсэн байх зорилт тавигдаж байна.

## 1.Introduce

Stable trade order still needs the adjustment of multilateral trading system. Due to the extensive influence of *WTO Agreement*, it is actually the important content of multilateral trading system at present. Multilateral trading system is not just composed by *WTO Agreement*, in fact, there are some other multilateral trading legal forms. Although WTO had no comprehensive, concrete and standard regional trade system, it admitted the reality of trade regionalization in agreement documents, which exerted important influence on the operation of multilateral trade system. Regional economic trade and multilateral trade process accompany each other at present. Therefore, multilateral trade system and regional economic cooperation system coexist and interact with each other.

Although global economic process has economic statuses including rapid economic development or economic crisis, multilateral trading system is still the adjustment mode of stable trade order, and also the legal requirements of multilateral trade and economy of international community. Regional economic trade opening up and multilateral trade process accompany and interact with each other at present. It is worth noticing that in such interaction, the tendency of achieving trade multilateralism with regionalization rule has already formed.

In fact, regional economy and trade is developing more and more obviously, and multilateral trade is in fact promoted by open regional economy. Especially in recent years, the scope of regional economic activity is further expanded. It not only includes goods trade, service trade, intellectual property right, but also includes the contents of different fields such as environment, investment, agriculture, and competition policy. Basing on trade multilateralism, global economy is conducting the transnational flow of commodity, service, production factors, and information, and continuously transforming resources allocation within worldwide scope. Therefore, the discussed economic globalization can be said scale economy and economic form increasingly relied upon by various economies. As the mainstream of world economic development, it has influenced the reconstruction of legal rules system corresponding to it. <sup>[1]</sup>

Global economic cooperation and regional economic opening up have certain conformity in basic form. Meanwhile, it inevitably requires fairly resolving the issue of multilateral trading system and regional opening up in system. Thus regional open multilateralism does not reject and needs the adjustment of multilateral trading system.

2.As is known to all, WTO regards trade liberalization as its tenet. In fact, trade liberalization has become the basic tenet of global multilateral trade. However, it has not resolved the inequality problem of world economy and trade. Therefore, research should be conducted on countries implementing regional trade opening up, as well as on how to seek development and open up economy in regional environment targeting at unbalanced multilateral trade system.

Although multilateral trade system is not just solely composed by *WTO Agreement*, and there are some other multilateral trade legal forms and trade mechanisms in reality, it is the most important content of multilateral trading system in effect at present due to the extensive influence of *WTO Agreement*. World Trade Organization (hereinafter referred to as WTO) had established multiple system arrangements on multilateral economy and trade. However, it failed to formulate comprehensive system norms on regional economic opening up and cooperation. Meanwhile, the trade negotiations of WTO had experienced very difficult and complex process in topic setting,

progressing process and concrete results in most of the circumstances. For instance, it had numerous topics and difficult negotiations in Cancun Meeting, Doha Agenda, and Hong Kong Meeting; and the interests and contradictions of various parties not only had consultation compromise, but also had sharp contrast, fully reflecting the dilemma of WTO as the negotiation mechanism of multilateral system. Just due to the enormous divergence of different interests, it doomed that it was not easy to reach consensus and resolve various economic problems in WTO within a short period of time.

Although WTO had no comprehensive, concrete and normalized regional opening up system, mainly regional trade system, it admitted the reality of economic trade regionalization, which exerted important influence on the operation of multilateral trade system in law. The document *Memorandum Concerning the Explanation on Article 24 of 1994 General Agreement on Tariffs and Trade* of WTO not only fully affirmed economic trade regionalization and confirmed the right of membership policy on regional economic and trade arrangement, but also made important supplementation on legal deficiency<sup>1[1]</sup> of Article 24 of *General Agreement on Tariffs and Trade*, facilitating regional cooperation to have development space in international law.

The reality of multilateral trade showed that once trade protectionism has no market, various countries may mostly adopt measures to circumvent unbeneficial trade system. For instance, the purpose of measures including technical trade barrier was for breaking away from the restriction of multilateral trade system and adopting various new trade protectionism measures. It needs to be particularly noticed that developed countries expect to open the distance with economic development of developing countries, so as to maintain long-term developed advantageous position.

Under general circumstances, when regional trade has certain opening extent, trade protectionism should have no transaction market under normal conditions of economic exchange among countries. Therefore, pure trade protectionism at present has no more activity space. However, lots of countries, no matter developed countries or developing countries, or no matter countries of various different regions shall adopt different forms of protective trade in reality. For instance, America, as one developed country, except technical policy, the implemented strategic trade policy is moving towards one new turning point, changing free trade policy into "fair trade" policy. In fact, it would also occur and implement new trade protectionism. Targeting at this status, although WTO had conducted incessant coordination activity (for instance, *Doha Ministerial Declaration* specially regulated on "Emphasizing on implementing WTO Agreement and promoting implementation measures"), there exists multiple fundamental reasons resulting in that WTO Agreement cannot be effectively implemented in international community,<sup>2[2]</sup> resulting in that it is not the problem that can be resolved within a short period of time. It also makes that global multilateral trade system tem-

<sup>1</sup> In fact, General Agreement on Tariffs and Trade (GATT) firstly established international law documents on regional system, its item 8 of article 24 of (C) regulated regional arrangements: "member countries should cancel product tariffs and other trade barrier regulations restricting free trade, and above two countries or regions can achieve free trade". It admitted customs union and expressed the contents of free trade area, which provided legal support for the cooperation alliance, or organization and mechanism of regional economic trade opening up. WTO is still continuously developing in understanding and application.

<sup>2</sup> No effective implementation of WTO Agreement is the important issue involving WTO, and there are different opinions on the cause of its no implementation, such as economic cause, political cause, and cultural cause, or the cause of state security; and there are different opinions on the fundamental cause. This paper only emphasizes the different contents in fundamental cause.

porarily cannot get rid of the legal dilemma faced in formation and implementation.

Under such circumstance, maintaining common prosperity and stable trade order indeed needs multilateral trade system to adjust the status of global resources optimization and allocation. However, as the interest of various economic trade regions had obviously prominent situation in reality, interest adjustment and balancing mechanism in multilateral trade system was obviously weakened, and the adjustment direction of trade system was gradually developed towards respective interest direction of countries within different interest regions. The most obvious is the various package agreement mechanisms of WTO. Although it is the most representative world multilateral trade system, it is also one strengthened system of multilateral trade system. However, it is still influenced by different interests at present. Once possessing advantage in economic strength, it shall often directly promote new trade protection or maintain the enjoyed protective interests.

Thus the economy and trade of various countries continuously seek regional legal protection norm, it shall result in economic trade conflict between multilateral trade system and the trade system of different regions. For instance, developed countries expect developing countries to open up economy, but they are also worried that the products of developing country may enter domestic market. The most typical was *Agreement on Agricultural Product* and *Agreement on Textile Products and Clothing* beneficial for developing countries, while developed countries did not carry out effective implementation.

Moreover, different countries in multilateral system often have different economic development field. Concretely speaking, in technology trade field, international technology transfer market is controlled by minority countries, and the technical aid offered by technologically developed countries to some developing countries was often trivial, and developing countries mainly purchased technology at high price via trade. Technologically developed countries often transfer high-new technology at high price, and regulate some harsh restrictive clauses and irrational conditions. It possibly let legal position in technology transfer trade field become extremely unequal. Therefore, it seems that multilateral trading system tries to fairly resolve the issue of fair trade of some developing countries, the fact is that in multilateral trading practice, the price difference formed among countries due to the difference in nature and production cost is difficult to be comprehensively and completely resolved or coordinated in multilateral trading rules.

Therefore, on the one hand, the developing countries in multilateral trading system needs to accelerate domestic economic development, reform foreign trade system as per international conventions, perfect domestic legislations and policies, and reduce incongruity with international multilateral rules in system, policy and laws. On the other hand, they need to strengthen cooperation with regional and peer countries, improve regional group development capacity, and exploit more international cooperation opportunities and conditions. As far as reality is concerned, improving the individual and group development capacity of countries in regional trade and economy within regional rule framework is believed to be the most feasible measure. Various countries can apply regional protection rule to accelerate trade growth rate under regional cooperation conditions; while developing countries can apply internal trade norms and rules of regional trade to obtain more benefits.

3.As joining regional trade and economic organization often has legality, coun-

tries can turn to regional economic organization, which shall not only be able to give consideration to national interest, but also more consider regional economic and trade development.

Now, regional trade system gradually restricts international economic and trade relations. Regional economic and trade cooperation has been further deepened and expanded since 1990s, and the most prominent is EU (European Union) and NAFTA (North American Free Trade Area). Such two different areas have respectively different economic cooperation and protection relations, and theoretically, they conform to traditional economic integration theory, exhibiting strong close characteristics. European Union (hereinafter referred to as EU) is the biggest export subsidy area in the world. One earlier statistics showed that its annual export subsidy expenditure was about USD 6 billion dollars from 1995 to 1998 during 1990s, accounting for 90% of world export subsidy. Because it was the most obvious years of its export subsidy, now such situation has no greater change. Therefore, this paper believes that such phenomenon undoubtedly would cause regional economic alliance, and regional interest growth shall be higher than that of non-regional interest growth. Thus it may possibly form regional free trade and common market, especially offering regional general preferences and promoting the continuous strengthening of internal economic and trade links. Meanwhile, the normal system of multilateral economic and trade laws is invisibly integrated into regional interest balance. Economic organizations in multiple areas had adopted regional preferential alliance mode, and the response of nonmembers on the differential treatment was not strong. Thus it should be admitted that regional economic cooperation may exist certain relatively closed development mode. Currently, the positive role of such mode on trade liberalization shall predominate, but the contradiction between such development mode and multilateral trading system has not been eliminated. Therefore, the basic condition of regional trade cooperation is to establish one non-discriminatory open trade mechanism.

As to regional economic cooperation, there are different expectations and evaluations in theory. However, in reality, no matter regional economic alliance or the rapid development of regional economic integration, new legal system arises with economic change. For instance, the basic legal form restricting regional economy: i.e. "regional trade agreement". This paper defines "regional trade agreement" as trade norms formulated targeting at regional economic and trade behavior, and it is the results of bilateral or regional negotiations. Under world economic conditions, as such category of regional trade agreement restricts regional economic and trade activities, the problem of relationship with multilateral trade system had occurred. "Regional trade agreement plays important role in promoting trade liberalization and economic development, but it needs to coordinate the relationship between multilateral trading system and regional trading system."

Rash conclusion cannot be made on whether the tendency of regional trade cooperation is beneficial for the requirements of multilateral trading system. However, it can be affirmed that any legal form of differential treatment shall result in the change of relative position in economic and trade competition. Various countries shall be bound to respond to differential treatment for respective economic benefit, adopting trade protection measure shall be inevitable, and the rule of multilateral trading system shall be subject to certain impact. Concerning the offering of mutual benefit and reciprocity treatment in region, it is often firstly considered the practical situation

of economic development of various countries within region, thereby formulating concrete regional economic rule. In this respect, the *General Agreement on Tariffs and Trade* (hereinafter referred to as GATT) had particular regulations on underdeveloped country members in trade and development, allowing them to adopt special measures to promote domestic trade development, and developed countries should give priority to reducing or eliminating the customs duties and other trade barriers on exported products of underdeveloped countries with major significance. Meanwhile, GATT allows customs union and free trade area as the exception of the principle of equality. In essence, it has become the measure of regional trade protection. Such tradition is acknowledged by WTO, thus forming one special situation at present, i.e. the coexistence between multilateral trading system and regional economic cooperation system.

However, if regarding regional trade opening up as the basic condition of regional cooperation, targeting at unbalanced multilateral trading system, various countries should adhere to the basic system principle of open economy in regional environment.

4. Although GATT designed special preferential system targeting at border customs duties of neighboring countries, resulting in adopting deviating general most-favored-nation-treatment special system<sup>3[3]</sup>, multilateral trading system provided system conditions for such regional mechanism.<sup>4[4]</sup> Such design emphasized geographical location contents of economic and trade relations. As to the reason of rapid development of regional economic and trade mode, it cannot just obtain the conclusion that it is rooted in close regional geographical location.

The cause of close geographical location can become one traditional concept. At the beginning stage of regional economy, due to emphasizing and resolving on the difficulty of economic link generated due to close market resources, regional economic development shall benefit from the advantage of traffic conditions among neighboring countries or regions. However, regional economic trade, economic and trade area or customs union of neighboring country or adjacent region is just of its representations. Free trade area of cross-geographical relation continuously appeared, for instance, trade relations between America and ASEAN, economic and trade relations among America, Japan and South Korea, as well as the trade relations between EU and Mexico, sufficiently showing that regional opening up pattern has exceeded adjacent geographical concept. It let regional economic and trade mode occur important change, which is also the basic condition of regional economic trade.

In terms of economic significance, the important factor deciding such regional link lies on different national interest and economic interest. Promoting economic and trade growth via regional cooperation, regions can ensure to strengthen the space of market competition, become the condition restricting non-regional benefit, and acquire regional economic dominant right. Of course, it includes political and cultural factors, etc. Some special influence generated by regional cooperation or alliance transcending geographical location significance on multilateral trading system should be paid particular attention to. Geopolitics is also the important consideration of signing free trade

<sup>3</sup> Although there are different cognitions on the interpretation of regional preferential treatment, its deviation to most-favored-nation-treatment is consistently identified. The so-called dispute is just targeted at the scope of application. Different cognitions can refer to: WTO secretariat Synopsis of "Systemic" Issues Related to Regional Trade Agreements, 2002.

<sup>4</sup> Article 24 of WTO presented the basic mode of regional economy, including customs union, free trade area, and interim agreement. The work of Zhao Weitian can be referred to in this regard: Legal System of WTO, Jilin People's Publishing House, 2004 Edition.

agreement by government, regional trade agreement can be regarded as the strategic tool for protecting regional interest or some different national interests within the region. Of course, the legal system of regional cooperation may have various conflicts with multilateral trading system. Therefore, some negative problems in the interaction between multilateral and regional trading system should be analyzed and resolved.

Firstly, there exists unequal opening problem. Although the opening target and basic principle of regional and multilateral trading system is basically consistent, there indeed exists passive problem in actual development. Of course, the most important is the behavior of acquiring benefit from other countries or regions under the conditions of not paying any cost. For instance, as the biggest regional alliance, EU is always viewed as the biggest beneficiary of promoting regional opening by APEC. EU rarely or never offers reciprocal treatment in essence to the counter part of economic trade; it is the embodiment of non-equivalence in economic cooperation. Multilateral trading system and international law has no more perfect solution on it. In essence, ASEAN, Northeast Asian Region, APEC in Asia, and even NAFTA had implemented regional opening more or less, but EU rarely provided its regional opening to the development content and target of multilateral trading cooperation.

Secondly, there exists different domestic law restriction requirement. Multilateral trading system had facilitated the interaction of economic activities of more and more countries within worldwide scope, and the economic activity of various countries and regions became more and more interdependent. However, different countries have different domestic law contents, and the trade policy of some countries may subject to the influence of relevant interest. It may influence the development of multilateral trading. Trade cooperation contents in global multilateral trading system may not derive from the power of trade negotiations in some circumstances. In some circumstances, multilateral trading system and new trade protectionism make the position of developing country in multilateral trade cannot be maintained under certain market competition. In addition, in incomplete world market, some countries can establish economic cooperation criterion within region. For instance, in Free Trade Area of the Americas (FTAA) and US-Central America FTA Negotiations, America let negotiation opponents accept more strict topics including investment, government procurement and competition policy. Meanwhile, America is promoting stricter IPR protection rules, while it was not active in the problems such as agricultural subsidy and domestic support concerned by developing countries. Developed countries generally hope to obtain some more preferential conditions exceeding multilateral trading system from regional developing countries and non-regional countries.

At present, regional cooperation has become one of the key modes of regional economic and trade development, while the interaction between multilateral and regional trade system has direct influence on regional economic cooperation. Therefore, the research on international issues, regional issues, and state relations need to pay particular attention to such important content. In international law, multilateral trading system and regional trading system should become the important content. In addition, the interaction between regional and multilateral trading system should conform to the standard of international law. Therefore, some viewpoints believe that the relationship between multilateral trading system and regional trading system should comply with the principle of progressing under the restriction of multilateral rules. <sup>[5]</sup>

#### 4. Conclusion

This paper believes that multilateral trading system tries to resolve global trade issues via rules, especially legal rules, and the universality and effectiveness of WTO system cannot be replaced by regional trade rules. However, regional trade mechanism can promote regional cooperation, and regional trade cooperation and coordination is probably more beneficial for economic reciprocity and system construction than global multilateral coordination. Maybe it is another new development mode of multilateral economic trade. However, several points need to be paid particular attention to: (1) regional economic system indeed transformed the globalization pattern of multilateral economic trade marked by WTO; (2) regional economic cooperation is maybe the development stage and form of multilateral economic trade, and two systems are not completely opposed legal mechanisms; (3) regional trade system and multilateral trade system should be based on similarities, which shall provide certain economic and legal accumulation for globalization transformation. Seen from a long time, regional economic cooperation and global economic cooperation are not completely opposite, while common development; it is decided by the reality of regional and multilateral trading system. At present, the development of multilateral trading system shall still influence or restrict regional trade. Meanwhile, regional economic and trade cooperation and legal mechanism can provide more system targets conforming to the coordinated development of multilateral trade.