



Fragmentation Challenges in the International Trade Legal System and China's Strategies

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Abstract. The international trade legal system needs to fulfill the needs through the fragmented structure. On the one end, it needs the constitutional function of the WTO to maintain a stable multilateral trade order. On the other end, it needs the diversity of trade agreements to harness the complex conflicts of the current trade order, including the political distrust driven by the changing power structure, and the domestic social conflict driven by the deeper integration of the trade market. When participating in international trade governance, China needs to avoid the trap of political attack, have a nuanced understanding of the fundamental conflict of the new international trade order, and harness the fragmented structure to promote the gradual evolution of the international trade legal system.

Keywords: Historical Change; Global Value Chain; Fragmented Structure; World Trade Organization; International Trade Order

1 INTRODUCTION

The international trade order is undergoing historic changes influenced by factors such as financial crises, leading to deep integration and anti-globalization trends. Against this backdrop, the international trade legal system faces unprecedented challenges of fragmentation. The World Trade Organization (WTO), as the core of the multilateral trade order, is in crisis with outdated rules, paralyzed multilateral negotiations, and dispute resolution mechanisms. This has resulted in the expansion of international trade law through diverse paths. As a major trading nation, China has become a focal point in the fragmented trade order, facing political attacks from Western countries. Traditional discussions on the fragmentation of international law express anxiety, emphasizing the need for a unified and stable whole. However, deeper research views fragmentation as a contradictory development in international law, providing opportunities for diverse professional and regional subsystems but also posing risks of internal conflicts. Fragmentation can be restructured as the basic framework of the international legal system, composed of diverse, equal, yet interconnected subsystems. This structure is rooted in the horizontal pursuit of common human values in the international community, reflecting the dual tensions of diversity and institutionality. The tension of diversity arises from the sovereignty-based structure of the international community, leading to the autonomous expansion of international law through diverse national actions. The

tension of institutionality stems from the international community's need for common human values, gradually obligating states to assume basic obligations to the international community. The fragmented structure is a compromise to the state of anarchy in the international community, offering flexibility and timely responses to new needs in the international legal system. However, in the absence of central authority, it is crucial to ensure coordination and cooperation among decentralized subsystems to overcome the risks of institutional conflicts and fragmentation [1]. Currently, international trade law is the most typical fragmented system, causing concerns in the international community. This paper aims to objectively deconstruct the fragmentation phenomenon in international trade law and answer two questions: first, under the fragmented structure, what are the institutional and diversity tensions in international trade law, reflecting the contradictions in the current international trade order? Second, facing a fragmented trade order, how can China participate in the governance of the international trade order?

2 FUNCTIONAL REQUIREMENTS OF THE FRAGMENTED STRUCTURE OF THE INTERNATIONAL TRADE LEGAL SYSTEM

The historic changes in the international trade order exert pressure on the fragmented structure of the trade law system, requiring it to reconcile conflicting dual tensions. On the one hand, the international legal system has institutional requirements, necessitating stable institutional arrangements to uphold fundamental values [2]. On the other hand, the complexities of cooperation or conflicting sovereign interests among countries make it necessary to gradually achieve objectives through diverse institutional arrangements. Currently, with deep integration in the international trade market, the demand for stable development of the international trade order is stronger, but new trade issues create larger interest divergences among sovereign nations [3].

2.1 Institutional Requirements of The International Trade Legal System

The new trade order challenges international cooperation, requiring countries to adjust their trade patterns and strengthen the resilience of domestic institutions. There remains a need for institutional arrangements to stabilize the international trade order, with the WTO maintaining a central position to avoid returning to disorder. The institutional requirements of international trade law aim to establish economic ties among nations, preventing distrust and political hostility in the international community. Modern international law, with goals such as human rights and social welfare, derives its legitimacy from guiding fundamental values. History shows that trade policies based on narrow self-interest can trigger retaliatory cycles, and a stable international trade order contributes to peace and development in the international community [4]. A stable international trade order is the pursuit of the international community, as stated by Harry Hopkins, a U.S. representative: "Trade conflicts will bring about non-cooperation, suspicion, and suffering." While the international community generally acknowledges the

value of free trade, each country's trade policy still needs to be constrained by international trade rules. Trade rules can motivate and unite countries in supporting free trade, and trade agreements enhance the export interests of participating countries, consolidating domestic support for free trade. Trade rules help restrain the opportunistic strategies of nations and provide a stable and predictable market environment for transnational economic entities. A free trade order requires a "thick" institutional system for stability, and the establishment of the WTO is a natural requirement to enhance the resilience of the multilateral trade order [5].

In the new trade order, countries need to abandon mercantilism and zero-sum thinking. In the early stages of international trade, trade in manufactured goods dominated, and trade protectionism disrupted supply chains, damaging domestic interests and reducing related employment opportunities. Additionally, determining "winners" or "losers" based on trade surpluses or deficits is inadequate; a trade deficit may reflect domestic economic expansion and increased purchasing power. In the new trade order, the international trade market needs to establish a stable institutional system, encouraging countries to actively integrate into supply chains to enhance their competitive strengths.

Against the backdrop of tense China-U.S. economic and trade relations, trade protectionism will impact the global market. Data shows that 80% of global trade is driven by supply chains constructed by multinational companies, and the tension between China and the U.S. poses uncertainty to this structure. Therefore, maintaining an open and cooperative international trade order is crucial for the interests of all countries. Although there is a trade deficit between the U.S. and China, the two countries are mutually dependent, and any unilateral adoption of trade protectionism may lead to trade dilemmas. Disputes should be resolved through international cooperation mechanisms to promote the stability and sustainable development of the global economy.

2.2 Diversity Requirements of the International Trade Legal System

The rapid development of information technology and the establishment of global value chains impose higher functional requirements on international trade law while intensifying disagreements among nations. Reforms of international trade law at the multilateral level face practical difficulties, necessitating diverse trade arrangements to alleviate deepening conflicts. Currently, the disagreements in international trade law primarily manifest in three areas [6].

Firstly, global major supply chains still exhibit regionalization, making it easier for deep coordination of supply chain trade rules within regions. Countries need to coordinate and cooperate on supply chain trade rules, involving domestic product standards, intellectual property protection, and other systems. However, not all countries can or are willing to reform their domestic systems according to a unified model. The current global value chain also reflects regional collaboration, with new rules often established only within regional super free trade agreements, such as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) [7]. In the new trade pattern, full participation by all countries is not necessarily guaranteed. The logic of traditional international trade arrangements was "you open, and I open as well," but the

current logic is more about "you protect my property rights, and I establish a factory in your country." The outbreak of the COVID-19 pandemic has further heightened concerns about supply chain security, prompting countries to establish trustworthy industrial chains [8].

Secondly, the intensified differentiation of interests resulting from the new trade pattern has increased political suspicion among countries with different systems, posing greater challenges to trade cooperation. The changes in the trade pattern have led to unequal distribution of globalization benefits, and supporters of international trade attempt to explain the "losers" of globalization as unrelated to free trade, attributing it instead to the absence of social functions of domestic governments. However, politicians in Western countries ignore government failures and advocate a logic of mercantilism, emphasizing the fairness of international trade. This logic, while lacking rationality, is the most provocative political slogan with potential political influence. With the deepening integration of the globe, collisions between countries become more intense, and differences in economic systems lead to increased suspicion and mistrust. Therefore, it is essential to avoid distorting behaviors in the trade market, focusing on enhancing communication and mutual trust between countries with different economic systems [9].

Thirdly, the escalating conflict between transnational capital and social development under the new trade pattern makes it challenging for countries to reach a consensus at the multilateral level. Apart from mercantilist thinking, the uneven distribution of international trade benefits can be interpreted differently. The globalization process driven by multinational corporations has triggered fundamental contradictions between meeting the commercial needs of multinational enterprises and safeguarding the economic sovereignty interests of nations. Trade issues mainly focus on the trade and investment needs of multinational corporations but fail to adequately address the comprehensive contradictions between them and social development. Norms regarding the protection of intellectual property rights, reform of competition systems, and the responsibility of multinational corporations are not yet perfected, failing to achieve a balance between commercial interests and social development in each country. Therefore, the comprehensive social contradictions that may arise in the current trade order have not been adequately assessed, further complicating the difficulty of reaching a consensus in the international community on new issues.

3 STRATEGIES FOR CHINA'S PARTICIPATION IN INTERNATIONAL TRADE GOVERNANCE AMID HISTORIC CHANGES

The current dilemma of the fragmented structure of the international trade law system stems from the historic transformation of the international trade order, influenced by the politicization trend of trade relations due to changes in the global trade pattern. As a rising trade powerhouse, China needs to comprehend historical patterns when participating in international trade governance and effectively manage the fragmented structure of international trade law [10].

3.1 Development Trends of the Fragmented Structure of the International Trade Legal System

International trade law aims to meet the functional requirements of the current international trade order, demanding comprehensive openness in goods, services, investment markets, and coordination of post-border management systems by countries. The debate on to what extent trade law addresses development issues involves whether it can resolve traditional issues of free trade in goods and address issues such as services trade, investment, intellectual property rights, and other challenges, which may challenge national sovereignty and internal democratic processes. Some scholars advocate that global trade should ultimately achieve the free flow of goods, services, capital, and people, and international trade law needs to provide corresponding institutional support. This paper believes that the international trade law system is based on market economic theories, and its functionality depends on the needs of international economic and trade behavior while stabilizing market order when the market fails. Since transnational economic and trade behavior requires coordination of institutions in various countries, involving product standards, industry management, property rights protection, and market competition, it will impact labor, the environment, and social development in various countries [11]. In this context, constructing international trade rules to balance free trade and national sovereignty interests is inevitable. The fragmented structure of international trade law will continue to exist, but trade issues should not be politicized, as it may aggravate the dilemma of "weakening central authority while disorderly expansion of diverse arrangements." In general, the fragmented structure can meet the institutional and diversity needs of the international trade law system, with the WTO maintaining general consensus through unified regulations, while deeper economic and trade cooperation needs between countries are gradually achieved through diverse platforms [12]. The current predicament of the fragmented structure of the international trade law system mainly arises from the intensified political conflicts resulting from changes in the trade pattern. Around the time of the First and Second World Wars, due to the influence of political relations, international economic and trade arrangements were mutually severed, leading to the collapse of trade order and international law. China is at the core of the contradiction in the fragmented international trade, and it needs to be vigilant against the crisis that the politicization of trade issues may bring to the international trade law system [13].

3.2 Policy Recommendations for China's Participation in International Trade Order Governance

The rapid development of global value chains and the information technology revolution have driven the three-dimensional development of the international trade order, making international trade law more service-oriented to multinational enterprises. However, due to its unilateral focus on corporate interests while neglecting social sustainability, globalization has led to escalating social conflicts. The core contradictions mainly include political suspicions caused by changes in power structures and the intensification of global conflicts between globalization and social development due to

the exacerbation of new trade issues [14]. China needs to objectively respond to challenges from Western countries to its system, avoid falling into the trap of political attacks, actively engage in dialogue with European and American societies to clarify differences, and deepen domestic reforms to enhance competitiveness. Managing the fragmented structure of international trade law requires action from both institutional and diverse perspectives. Maintaining the central position of the WTO in the global trade system and stabilizing the multilateral economic and trade order through legislative and judicial reforms are crucial. In terms of diversity, achieving industrial chain integration through free trade agreements, separating trade and political issues through bilateral or multilateral dialogues, and reaching different agreements with like-minded countries are ways to gradually seek the maximum common denominator [15]. Finally, addressing new trade issues through fragmented institutional reforms, resolving tensions between globalization and social development, and preventing the emergence of anti-globalization sentiments are essential. Exploring how to balance commercial interests with economic sovereignty in the new international economic and trade order, ensuring health needs, labor rights, and environmental standards, and focusing on the United Nations' Sustainable Development Goals may help consolidate new consensus among various member states.

4 CONCLUSION

Currently, the fragmented structure of the international trade law system reflects the transformation of the trade order. The information technology revolution has propelled globalization, dominated by multinational enterprises and facilitating global production networks. International trade law needs to adapt to this development, not only reducing trade barriers but also coordinating management systems. Promoting open markets requires multilateral platforms, but coordinating management is restricted by national differences. Although the WTO has reduced tariffs, coordinating post-border measures remains crucial for trade cooperation. Differences in institutions, lack of trust, and conflicts between globalization and social development intensify the dilemma of collective action. In this historic transformation, the fragmented structure of the international trade law system is inevitable: maintaining the resilience of the multilateral trade order through the WTO while exploring new issues through diverse trade arrangements. China's rise has made it the core of the fragmented trade order, serving as a link between developed and developing countries. When participating in international trade governance, China needs to understand the contradictions in the trade order to plan objective and long-term strategies.

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