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CHANGING DYNAMICS OF INTERNATIONAL TRADE & INVESTMENT

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SPECIAL REPORT

Changing Dynamics of International Trade & Investment

Rules of international trade and investment have never been simple and straightforward. International trade regime has always been complex due to a number of reasons, inter alia; level of development of industries and economies, unique and specific purpose domestic regulations in different countries. There was no coherence in such domestic regulations, which created a lot of obstacles to promote free and fair trading system globally. Additionally, varying government policies in order to meet their own national objectives served as a restraining measure on the development of global free and fair trade. Few countries have adopted liberalization of trade policy, whereas, other opted extreme protectionism.

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In spite of all challenges and restrains, World Trade Organization (WTO) rules created conducive requirement towards creating coherence in the domestic regulations in the member countries and have been instrumental to expand the volume and variety of international trade. Due to which value of merchandise trade and trade in commercial services in 2014 has been nearly twice as high as in 2005 i.e. rose from around 13 trillion US dollars to around 24 trillion US dollars. Significant variation has been observed in international trade due to a number of factors, for example, during 2015, world energy prices dropped by 45%, which had a significant impact on value of global merchandise trade in 2015, which shrinked by over

10%. Ratio of world merchandise trade to global GDP rose to over 25% in 2008 from 22% in 2005 and fell sharply to around 20% in 2009 following the economic crises, but bounced back quickly in 2010-2011 (to around 25%). In 2012 – 2014 it declined gradually before falling significantly in 2015 to 22%. In nutshell, ratio of global merchandise trade to global GDP during the last 10 years remained fluctuating in the range of 20% - 25%.

It is a positive sign that rule based international trade has encouraged developing countries to boost their exports, which obviously has contributed to the growth of their economies. The share of developing economies in global merchandise exports increased from 33% in 2005 to 42% in 2015, whereas merchandise trade between developing economies increased from 41% to 52% of their global trade in last 10 years. Exports of commercial services by WTO members totaled US $ 4.68 trillion in 2015, of which developing economies accounted for 36% of global trade in commercial services.

Industrial growth in China during the last three decades has made a significant impact on international trade and economy. In 2015, China remained the world's leading merchandise exporter and the United States the leading merchandise importer. The top five trading countries, namely China, United States, Germany, Japan and the United Kingdom accounted for more than one third of world trade, while the top three countries accounted for more than one quarter, The United States remained the leading trader of commercial services. However, China, which ranked second, was the only economy with positive growth of both exports and imports. In 2015, all regions, with the exception of the Middle East, experienced declines in their export of services. The European Union experienced a decline of 12 percent in the value of its exports in 2015 after an average of 2 percent growth in 2012-14. Asia overtook Europe for the first time in terms of share of world exports in 2015 (36.17 percent compared with 36.15 percent for Europe). Europe and Asia, the leading destinations of exports, saw their imports dropped by 13 percent and 15 percent respectively in 2015.

Expansion in world trade has not been the only objective of the WTO, it also addressed the issue of food security at global level, so that people living across the globe can get the food necessary for their survival. WTO's trade policy does have a significant role to play in mitigating the adverse effects of high food prices and overcoming food insecurity, because world output any given food commodity tends to be much more stable than output in any individual country. Therefore, countries must not only import more food during times of local scarcity and export more food during periods of local abundance, but also ensure that policies appropriately incentivize farmers and consumers to respond to market signals. However, many countries often take the opposite approach, altering restrictions on food trade in efforts to insulate domestic market from world price fluctuations. Even the WTO landmark Bali package, agreed in December 2013, permits developing countries to provide domestic food price supports through at least 2017.

One of the challenges faced by international trade is the imposition of non-tariff measures by countries against imports. Such measures have always been a major impediment in the growth and development of international trade and investment. Such measures, inter alia, include those maintained under the WTO agreement on the Application of Sanitary and Phytosanitary Measures. The basic aim of this agreement is to maintain the sovereign right of its members to provide the level of health and safety regulations for food, animals, and plants that they deem appropriate literally as an element of food security but also to ensure that this right is not misused for protectionist purposes, thereby resulting in unnecessary barriers

to trade. Thus the measures must be scientifically based and applied only to the extent necessary and should be applied neither arbitrarily nor in an unjustifiably discriminatory manner. Members are encouraged to use international standards, where they exist.

Pakistan's investment policy has been formulated to create an investor-friendly environment with a focus on opening up the economy for potential direct foreign investment. Pakistan has one of the most liberal investment policy regimes and public-private partnership frameworks in the entire South Asian region

International trade has a direct link with investment policies and effectiveness of legal framework for protection of the investor's rights. There are more than 3,000 International Investment Agreements (IIA) worldwide. G-20 countries recently introduced, non-binding, Foreign Direct Investment (FDI) Policy Framework. UNCTAD has also developed a model Bilateral Investment Treaty (BIT) for the assistance of countries, especially developing countries. Although coherence in the UNCTAD's model BIT with the other IIAs very much encourages cross boarder investment, still many countries feel that their governments should be allowed to protect public interest in IIAs and BITs. At the same time, it is believed that government's right to regulate must not be compromised in following model BIT and other best practices. Since, there is no multilateral institution or system for regulating IIAs, one major issue being faced by many countries is resolution of disputes. Much has been talked about recently for having Global Appellate System, something similar to Dispute Settlement Understanding (DSU) of the WTO, for the resolution of investment disputes. Though most of the counties understand the importance of IIAs and its practical application with well-developed legal framework, still some countries look at FDI and IIAs with a fear to loose "domestic economic control". IIAs are changing very fast, new improvements are being made keeping in view the requirements of changing global economic environment. As a result thereof, few countries are even re-negotiating their earlier BITs to incorporate new provisions in pursuance of change in the global economic outlook. Still a lot is required to be done in order to streamline new IIAs with best practices and to bring about harmony. WTO has a Trade Facilitation Agreement (TFA) to assist countries to overcome their problems directly affecting international trade, but there is no such Investment Facilitation Agreement to address issues relating to promotion of investment environment through IIAs. The TFA was adopted at the World Trade Organization's 9th Ministerial Conference in Bali, Indonesia, in December 2013. This Agreement is the first major agreement to have been reached by WTO Member States since the conclusion of the Uruguay Round 20 years ago. Trade facilitation aims at simplifying not only the documentation required to clear goods, but also the procedures employed by border agencies. Ultimate objective is to reduce cost of doing business by removing impediments at the customs clearance stage.

Extensive deliberations were made in the World Investment Forum 2016 held in Nairobi, Kenya in July 2016. Few countries were of the view that there should be policy coherence in UNCTAD's suggested framework and the national legislation. Moreover, the need for a Legal Advisory Agency to be established by UNCTAD for Alternate Dispute Resolution was recommended. All suggested measures have the sole purpose of investment protection and growth with the aim to harness trade development and poverty alleviation.

Pakistan's investment policy has been formulated to create an investor-friendly environment with a focus on further opening up the economy and market for potential direct foreign investment. Pakistan has one of the most liberal investment policy regimes and public-private partnership frameworks in the entire South Asian region. The changed scenario of globali-

zation has shackled the economies of the developing countries and has forced them to adopt liberalized policies for attraction of FDI.

On competition side, which again has a very important link with trade, there is lot of challenges due to establishment of a large number of competition authorities worldwide. Obviously, approach for the development of competition law cannot be homogenous in all countries; number of factors is taken care of while developing competition law, included but not limited to, particular economic condition, politically motivated goals, government policy on liberalization of trade and investment etc. It should also be noted that business and economic competition in most countries is often limited or restricted. Competition often is subject to legal restrictions. What we need to do is to harmonize competition policy with the global trading system. We need to have trade and

competition agenda for the global economy in order to cope up with challenges, including but not limited to, threat of protectionism measures, use of competition law as a tool of discrimination or market exclusion etc. We must examine key challenges at the intersection of competition and trade policy in order to increase global trade and reduce barriers. We may enhance global trade by promoting international convergence in competition laws and by promoting competition principles into international trade. To ensure free flow of investment and to encourage global trade without regulatory and other barriers, it is advisable to enhance coordination and collaboration at the supranational level on competition issues. Moreover, greater involvement of the competition authorities in decision making and implementation of flexibilities in trade rules could lead to more free and fair trading system globally.

Actually, competition policy is part of other government policies to achieve its objectives. Under ideal conditions and in the best interest of trade development, Competition Policy, Industrial Policy, Trade Policy and even Investment Policy should go together. Competition policy must be in the direction of Industrial and other policies. Competition policy should not exist in isolation, but in line with other regulatory instruments. Similar competition issues could be presented in different arguments that could result into different conclusions reached by competition authorities in different countries. Challenges have increased because of the development of many competition authorities. It is therefore proposed that Joint working mechanism / common investigation teams may be developed for harmonization of practices in various jurisdictions. Moreover, a legal framework may be developed for arbitration proceedings in case of dis-agreements. UNCTAD has worked a lot on competition laws in different countries, but now this would also be discussed in the WTO where the UNCTAD guidelines could be taken as starting point.

We must examine key challenges at the intersection of competition and trade policy in order to increase global trade and reduce barriers. We may enhance global trade by promoting international convergence in competition laws

The countries also protect the interest of their domestic industries by using trade remedy measures, including imposition of antidumping duties, countervailing duties and safeguard measures. Such measures to counter unfair trade practices of foreign exporters and / or surge in imports are allowable / legal under the WTO framework. Although, too much use of Trade Remedy Laws could lead to following protectionist policy, but at times this is the most reasonable action a country can take in the best interest of its domestic industry. One such example is imposition of antidumping and countervailing duties by a number of developed and developing countries in the last few years on imports of Chinese steel products. China has huge surplus capacity in steel sector and it has not been able to curtail its production capacities due to keeping employed huge population, amongst other factors. Small scale economies / developing economies, in a situation when tariff protection is eroding with the passage of time, are left with no other option than to make use of trade remedy measures for its protection and later on development.

While discussing about trade & investment, one cannot ignore the importance of Preferential Trade Agreements (PTAs), which are more than 400 at present. PTAs can have positive or negative effects on trade and investment depending on their design and implementation. The interesting policy question is not whether PTAs are categorically good or bad, rather what determines their success. The basic aim of PTA is to increase trade through lowering trade barriers and only those agreements which are designed to complement a general economic reform have been most effective in achieving this objective. When PTAs have tended to be fruitless, it is often because of the lack of a coherent program of reform. PTAs can be a springboard to global markets, but here too, low MFN trade barriers are necessary for success. PTAs can help countries integrate with global markets, but no agreement provides guarantees, so design and implementation matters.

PTAs have also been found to impart benefits that go well beyond traditional analyses on static gains from trade. The challenge ahead is how the WTO system and PTAs can be most synergistic in deepening and improving each other. Various measures can be pursued. As a multilateral organization, the WTO is uniquely placed to provide dedicated "PTA Exchange" where all matters relating to PTAs could be discussed among all WTO members. This exchange would enhance PTAs' transparency and facilitate multilateralization of PTAs disciplines and best practices. The PTAs Exchange could be complemented by a dedicated forum for discussing complementary policies to PTAs to facilitate trade, such as physical infrastructure improvements. Multilateralization would further be enabled by reforms in WTO's negotiation. Interestingly, in PTAs, countries do prefer to make use of DSU of the WTO. This clearly demonstrates the use of multilateral instruments in PTAs; hence, multilateral trading system of the WTO has not lost its importance in the wake of so many PTAs.

It's a harsh reality, reported by the WTO, that world trade has only grown by 1.7% in 2016 and is likely to grow by only 1.8% next year. For a reasonable growth of international trade, we need to get more players to come in and join the international trade circle. This goal may be achieved by assisting Small and Medium Enterprise (SME) or for that matter even Micro Small and Medium Enterprise (MSME) to actively participate in the international trade. One way of helping the SMEs and MSMEs is provision of trade finance. Availability of finance for small companies has always been a problem and an impediment for smaller companies to contribute in International trade. Trade finance must be made available in developing countries to help SMEs to fulfill their global trade commitments. For large-scale companies it is easier to get finance and therefore their share in global trade is much more than SMEs and MSMES. Rules should be framed in a manner to facilitate SME to participate in the global economy. Such measure would further help in achieving Millennium Development Goal / Agenda. Moreover, for trade to be more inclusive we need to make SMEs and MSMEs educated enough to learn the Trade Rules.

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They require legal and economic education. It is important to prepare work force for the new global economy. Currently, G-20 countries do 80% or more exports of "goods & services". If we are not successful in promoting SMEs and MSMEs in least developed and developing countries, there could be too many refugees, which could create huge problem for the whole world.

Trade policy is one of the factors that influence participation in Global Value Chain (GVC). Trade policies are important because they influence both the competitiveness of the domestic market as well as the ability of companies to participate in the global production network. One simple example could be tariff on inputs that result into negative protection for downstream industries. Reason being, production cost of user industry is increased resulting in

higher rates of effective protection than a nominal protection. Where the size of an economy is small and it is largely depending on imported intermediate products for its exports, the cost of tariff protection in a GVC is quite high. At the same time, the damage done by Non-Tariff Measures (NTM) cannot be ruled out. Some experts believe that NTMs show higher level of restrictiveness on trade than tariffs. When NTMs adversely affect intermediate products, they also create high rates of effective protection and handicap domestic producers trying to participate in GVCs. While talking about trade in goods, one cannot ignore the importance of service sector in GVC. Services used in GVCs have grown immensely such as finance, insurance, IT services, communication etc. Therefore, any restriction on services trade which has a negative impact on competitiveness of services and their ability to play a facilitating role in GVC would have a direct impact on growth and development of service sector contribution in GVC. Finally, it is important to consider how through the use of Preferential Trade Agreements entities could become part of GVC.

Global political / economic changes including dis-integration of economic zones, development of new economic zones (groups) and new economic integrations could have a great deal of impact on trade and investments scenario globally. Brexit is one such example, which is likely to bring major shift in trade and investment scenario in Europe and UK. Similarly, there has been an important development in South-Central Asia where a number of bilateral investment protocols have been signed by China and Pakistan, according to which China and Pakistan will jointly undertake a huge project, called as China – Pakistan Economic Corridor (CPEC). CPEC is one of the most opportunities creating project for Pakistan's public and private sector. CPEC is a comprehensive package of cooperative initiatives and projects, which covers key areas including connectivity, information network, infrastructure, energy cooperation, industries, industrial parks, agricultural development, poverty alleviation, tourism, financial cooperation as well as livelihood improvement – municipal infrastructure, education, public health and people to people communication. The governments of both the countries are keen to help with planning and providing an enabling environment. A few more countries, regions have shown interest to become part of CPEC, thus, making it a game changer not only for Pakistan but also for its neighborhood and other alias.

CPEC is one of the most opportunities creating project for Pakistan's public & private sector. The governments of both the countries are keen to help with planning & providing an enabling environment. Its a game changer not only for Pakistan but also for its neighborhood & other alias

One of the most recent changes in the global trade scene is the phenomenal growth in E-commerce / Digital trade. Trade volume in E-commerce touched to the tune of 23 trillion USD last year 2015. E-commerce has not only promoted trade for SMEs but has also promoted micro enterprises and women entrepreneurs to have their share in global trade. E-commerce helps in maximizing potential of International trade. For promotion of digital trade, developing countries have to take significant measures like making sure that more and more people have access to Internet. The developed economies are already making best use of digital trade because most of its population has access to high speed Internet. In UK, 97% of its population will have high speed Internet by 2017. There is a consensus internationally that ultimate purpose of enhanced trade is growth and development across the board. Digital trade is one such tool, which is used and could be used more effectively in achieving this goal. WTO's agenda of innovation and digital economy is supported by most of the member countries. It is, therefore, being discussed at the WTO level to start negotiations on the development of WTO Agreement on E-commerce.

Fast changing global economic and business environment demands continuous change in the trade and investment regulations to cope up with changing environment. Countries who would not respond quickly to such dynamic environment, which is ever changing in the global scenario, would not be able to get its due share in the global trade; hence, we need to keep ourselves apprised of the latest trends and developments not only at the government level, but at our individual and enterprise level as well. Government can only help in providing conducive business environment, private sector needs to capitalize upon that and create a successful proposition for itself.

Mr. Saifullah Khan, the author of this report is a lawyer cum management consultant. He is a trade policy expert and has acquired specialized knowledge in WTO Laws.