

The WTO's Under-Capacity to Deal with Global Over-Capacity

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Raj Bhala

University of Kansas - School of Law; Dentons U.S. LLP; Bloomberg Quint (India)

Nathan Deuckjoo (D.J.) Kim

University of Kansas School of Law

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Abstract

As evidenced by World Trade Organization (hereinafter “WTO”) reform proposals, efforts are underway to revise critical features of International Trade Law at the multilateral level. Such efforts are not in a vacuum. Rather, they are occurring in a global economic environment characterized in part by structural imbalances, that is, of over-capacity and consequent overproduction and trade surpluses and deficits. The European Union (EU) and Canada suggest reforms concerning disciplines on state owned enterprises (hereinafter “SOEs”) and subsidies, and enhanced transparency. But, none of their suggestions has received America’s support in particular, nor garnered a significant consensus among WTO Members.

That failure may be explained by a basic mismatch: proposals fail to address global over-capacity in key manufacturing sectors such as aluminum and steel. Nothing among the reform proposals would alter materially the dearth of disciplines in the General Agreement on Tariffs and Trade (GATT) and WTO on SOEs and SOEs are a core cause of structural imbalances. They also would fail to make key changes with respect to constraining subsidies, bolstering transparency, or enhancing notifications. Accordingly, the thesis of this article is the WTO suffers from an under-capacity to deal with over-capacity.

Keywords: trade, WTO, market distortions, government support, global value chains, WTO Reform, industrial overcapacity, institutional undercapacity, subsidies, state-owned enterprise, state enterprises, state trading entities, public bodies

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