

Preferential Trade Agreements: Benefits or Determinants? A Critical Analysis of Preferential Trade Agreement

by

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ABSTRACT

Preferential trade agreements are those agreements that give preference to the certain states, nations, or countries within which the agreement is made with respect to the preference in the trade. This concept was initiated by keeping in mind the benefits associated with it, but the concept led to more of the conspiracy rather than equality. The word preference within itself depicts the biasness over the others. The global governance of trade helps everyone to be equally stabilized and not left with unequal treatments. There should be an ideal route for the trade and equitability shall be established amongst all by giving equal opportunities to all the nations and states. There have been immense issues relating to the politics, trade biasness and trade discrimination in European Union and United States of America Preferential Trade Agreements. The concept of preference shall be limited such that it should not hamper other's chance to even compete in the paths of trade. This research mainly focuses on the path of preferential trade with its benefits, drawbacks and how can one limit its scope to maintain justice amongst all.

Keywords:

1. PTA – Preferential Trade Agreement
2. FTA – Free Trade Agreement
3. RTA – Regional Trade Agreements
4. NAFTA – North American Free Trade Agreement
5. EU – European Union
6. WTO – World Trade Organization

Introduction:

Preferential Trade Agreements are those agreements that have several arrangements that govern the favored members and give preference to them over the non-favored members by excluding or giving leverage in tariffs and non-tariff preferences. It is basically a document that is a combination of unilateral, bilateral, or regional arrangements and it collectively makes the PTA. The most common form of PTAs are the FTAs. The most common PTAs today are NAFTA and US Australian FTA. With this, it has become very common for the developed nations and the developing nations to come into agreements with each other as it is a mutual benefit within each one of them.

Developing countries are able to have an economical trade over the expensive one, they build relations and this helps them to come closer to their motive of being the Developed nations. The developed nations have an advantage in this scenario that the developing countries, in order to have better trade relations come to them for a better deal. The problem that arises in this current scenario is that when the few nations that form the agreements together are the only ones who are together leaving behind the other nations. Even if those nations that are not a part of these agreements wants to come and become a part of the trade relations, they are not able to do so because the favoured and preference is given only to those that have signed up an agreement. These agreements should only be valid for a certain period and to the certain extend, they should have limitations with respect to the PTAs and FTAs. The World Trade Organization (WTO) permits countries to enter into PTAs under certain conditions, but the criteria are very elastic, and the examination by the WTO as to their consistency with WTO rules has not been rigorous.¹

Politics relating to PTAs and FTAs:

The main issue for the discussing is that these PTAs and FTAs serve as the blocking paths or the stagnant roots or they were supposed to be the vision for development. This question clearly depicts the problem with these agreements. These agreements were created to allow more production and creating a competition between all other than an anti-competitive market. But on the contrary they have now led to anti-competitive scenario only in the sense, it has shifted the burden to the non-PTA members that suffer in the long run with more tariffs and no benefits and only benefits are giving to the existing member nations to PTA. So, according to the economics rules, the rich nations are getting richer and poor nations are getting poorer. This can be understood with the example of EU, such that they do not allow the other member nations to come into their way of trade and indirectly they have created a monopoly of trade within themselves. This problem has completely vanished the actual motive behind the PTA an FTA, now it serves as a problem of biasness.

PTA's mission was to maintain a balance between the trade and maintain equitable distribution between the world trading system. The inability to maintain the balance has weaken the concept of multilateral trading system throughout the world and it has become the horrible of parade.

1. Article V of GATT's agreement that covers services (the WTO's General Agreement on Trade in Services (GATS); these provisions oblige WTO members wishing to enter into a PTA to show that they have complied with the relevant multilateral rules.

Example - European Union; One of the Most Powerful PTA's.

The EU is a unique trade agreement that not only regulates the free trade, the preferential treatment but also, regulate investment, intellectual property rights, competition policy and

government procurement along with the reduced tariffs. This concept implies that it not only regulates the provisions at the borders but also behind it. There has been a recent agreement between Europe and Canada, that not only provides the liberalization in terms of charges but it's some provisions also go beyond the regulations mentioned in World Trade Organization. This concept of Most Favored Nation not only helps those who are associated with it but also make them more power, it is a win-win situation for the nations those have signed up. The established relations by these agreements are explicitly discriminatory and does not allow the other continents, countries, or nations to come up for the trade.

NAFTA and other different types of Trade Agreements:

NAFTA serves to be one of the major and the best-known trade agreements, along with the most liked one by all the nations. There are other certain types of trade agreements such as the Trans Trade Partnership or the Mega Regional Agreements that are used by the powerful countries and big regions as the mega trade deals are to signed leaving behind the developing or the smaller nations. These regional agreements are the boon for some nations, those who are associated with it but act as a bane for the nonmembers as they are left with no work or trade. Furthermore, the concept of biasness is indirectly promoted by forming an agreement and giving preference through the FTAs and PTAs.

World Trade Organization- Transparency Mechanism for PTA's:

The PTAs include Generalized System of Preferences schemes (under which developed countries grant preferential tariffs to imports from developing countries), as well as other non-reciprocal preferential schemes granted a waiver by the General Council.²

There is a transparency mechanism is there to increase the transparency between the procedures establishing the PTAs. There are certain rights and obligations of the associated nations to each other and to others as well. It is also there to assist the member states in the matters of trade and PTA. Also, the WTO Secretariat shall prepare a factual presentation of the PTA, on its own responsibility and in full consultation with the notifying Member before it is circulated to Members.³

These provisions are a much-needed ones as if they had not been there then there would not have any specified mechanism to regulate the PTAs and it would have become the worst scenario where any nation who wish to do any sort of trade would have done. This is the supervisory authority to at least regulate and keep a check through it all. There were laws mentioned in the GATT, but it was not fully a regulation and that too not a concrete one as WTO is. It has now pointed out such provisions which were the need of an our such as the matter of transparency so that there will be barriers on the nations to not go beyond a certain limit as prescribed or at least the WTO is acting as a watchdog to scare or regulate the trade governance globally.

2. https://www.wto.org/english/tratop_e/region_e/rta_pta_e.htm

(Last visited on 4th October 2021)

3. Article 7 of World Trade Organization; Transparency Mechanism for Preferential Trade Arrangements

(General Council Decision of 14 December 2010)

Conclusion:

The study was conducted in the field of international trade law, being the utmost center of the discussion as PTAs and FTAs. There has been the evidence of politics in the

trade as these preferences are only extended to the countries that are part of the agreements and this blocks the other countries growth. There have been issues relating to the fact of creation of the indirect monopoly and anti-competitive trade routes. By this means the well to do or developed countries get more powerful and weaker countries get affected more in the other sense. The need of an hour is to establish a check and balance system so that these agreements do not overshadow nay routes. This is only possible with the sovereign in the international law, which is not there. There are loopholes in the whole of the international law and not only the trade law as there is not superior authority than the rest of the people or nations to regulate anything and everything. There is WTO to regulate the mechanism of the trade with the international perspective, but its rules only act as the guidelines. There are no stricter punishments or nay sort of penalization or the biasness or any sort of misconduct. There should be an immense authority to very strictly rules these out in the appropriate manner with the appropriate channel. The suggestion is to make such rules with such punishments like not to be able to trade for suppose 5 years if any mishappening is detected. The barring of nations will make them abide by the rules and follow the norms of equality for all. There should be an equal treatment for all the nations, equal trade opportunities should be given to all with no scope of biasness or politics in any terms.

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