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INVESTING IN GOODS IN WORLD TRADE ORGANIZATION (AN ANALYSIS OF THE AGREEMENT (TRIMS) AND BEARINGS OF DEVELOPING COUNTRIES)

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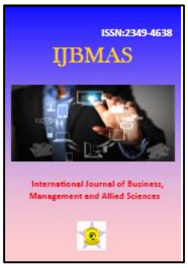

ABSTRACT

This paper is based on qualitative method, to an analysis an important agreement in the WTO. Which is one of the most important agreements in the WTO because they discussed the issue of foreign direct investment, The study of this topic agreement is of extreme importance for the countries and regions that are looking to attract foreign investment, at a time when many developing countries joined the World Trade Organization.

The goal of this paper organized as under the definition of (TRIMs) agreement, concept, objects, and the reason for their issues also to know the investment measures in the agreement and bearing of developing countries

Keywords: TRIMs, FDI, WTO, Development countries.

1. Introduction

Some may wonder about the reasons and motives that has led to the emergence of Trade-Related Investment Measures (TRIMs) agreement and its inclusion into the WTO agreements. Amin (1999) discussed the Uruguay Round of trade negotiations which is presented by industrialized countries, especially the United States, a proposal called the Trade-Related Investment Measures (TRIMs) agreement. The objective is to sign a global agreement under the World Trade Organization, aiming at removing the barrier and restrictions for the flow of foreign direct investment and the entry of multinational companies to local markets.

The proposal tries to abolish all investment measures on foreign investment projects imposed by the governments of developing countries in the hope that the investments fulfill a number of performance standards in their practice. Furthermore, it also prohibits the application of any measures for investment linked to goods trade-in only, which contradicts the provisions of GATT in 1994 in respect to national treatment or quantitative restrictions.

Although developing countries perceive the importance of foreign direct investment for their economic growth, they, at the same time, need to impose some conditions and requirements for the performance of these investments to ensure that the investments are oriented to the achievement of national policy for developmental objectives.

Saied (2002) mentioned that developing countries have expressed reservations on the proposal. Being aware that the liberalization of foreign investment under the terms of the Convention serves the interests of foreign companies, they, however, have approved the agreement and its adoption. **The Importance of the Convention and Its Impact on the Movement of Foreign Direct Investment**

This paper deals with the following:

2. Previous studies:

Archana K (2013) analyzed the effects of TRIMs agreement on Indian foreign trade. The study found that some of the countries receiving foreign investment had imposed numerous restrictions on the investment. They were designed to protect and foster domestic industries and to prevent the outflow of foreign exchange reserves. However, after the Uruguay negotiations considered these restrictions, that some of these investment measures distort trade and violating GATT Article III and XI, the measures were prohibited. Nevertheless, in reality, there are several lacunas in the agreement. However, India's exports in some areas decreases every year, yet the quantity of imports increases.

Ali (2010) analyzed the economic dimensions of the Convention on the Arab countries' development processes. He found that the removal of foreign investment restriction had led to negative effects on the economies of developing countries. In addition, he mentioned that industrialized nations had ignored the utmost importance of developing countries, i.e. taking a range of measures to make the investment accelerate the economic development. He also mentioned conviction that the abolition of these measures will damage the economy.

Jumaili (2007) analyzed the ideological content of the new global trading system. The study found that foreign direct investment flows to developing countries before the adoption of TRIMs agreement had varied greatly. Because the flow of the investments before the agreement comes in the presence of special agreements made between countries and foreign investors, it gives positive results for each contracting party. Under TRIMs agreement, the flow of investments is subject to the terms and strategies of multinational corporations claiming the investment. They are guided by its own terms to reach the destination they want. The expected results are the influence on the national exports, increased unemployment, and shrinking national industries.

3. The reasons for the agreement and its motives:

According to Jumaili (2007), in view of the vision for the new global trading system that aims at linking national trade laws and regulations of the new international trade system within the process of internationalization and extension of trade, there are various reasons leading to the adoption of the Convention of the World Trade Organization; which are as follows:

i. The growing phenomenon of economic globalization and the removal of obstacles for the free flow of goods, services, capital, and foreign investment.

ii. The new trend for foreign investment, especially by multinational companies, to countries that have become the target of investment activities that have been focused primarily on production for export.
iii. The existence of depression in industrialized countries, which started in the mid-seventies, and, thus, it urges liberalization of trade and investments transfer across international borders
iv. The increase of economic challenges faced by Southeast Asian and South American countries which encourages modern manufacturing.
v. The emergence of signs of concern among industrialized nations about local rules and constraints suffered by investors abroad, such as in the United States, seeing that investment measures have negative effects on world trade.

4. Measures of Investment to the agreement and its principles

Based on Salama (2006), Trade-Related Investment Measures agreement means the prohibition of any measure usually imposed by state governments, and local authorities, particularly in developing countries, mainly regarding the conditions and requirements for foreign investment projects they work with. The purpose is to direct the investments to fulfill a number of performance standards in their activities, especially those which are not in accordance with the principle of national development or general obligation of not resorting to quantitative restrictions on trade. It means that it blocks investments that are inconsistent with the obligations of WTO member agreements and GATT Principles.

The measures of investment in the agreement that have been prohibited are as follows (Archana, 2013 and Murad, 2002):

4.1. Local content requirements:

A requirement that a foreign investor must use a fixed percentage of local component in the final product. The host states of foreign investment sometimes require that the foreign investor uses local goods or materials of not less than a certain percentage of the production value, and they sometimes determine an absolute production value of the commodity.

4.2. Trade balancing measures:

It is intended to reach a balance between the imports and the exports of the foreign investor. The host countries require the foreign investors to import materials used in the production at a certain percentage of its exports value, and, sometimes, some states require foreign investors to import more than their export.

4.3. Foreign exchange balancing condition:

This requirement links between import and foreign exchange and between foreign exchange earnings and exports. It determines a certain percentage paid by foreign investors to buy imported goods from abroad to commensurate what they get from foreign currencies resulting from the export of their products.

5. The objectives of the Agreement

Ali (2010) mentioned that Trade-Related Investment Measures (TRIMs) agreement, with the growing role of multinational companies and their attempts to influence the global economy through their branches around the world that control the increasingly large part of the production processes and the distribution of global income was seeking to achieve the following set of goals.

i. Finding an institutional framework that protects the interests of multinational companies and ensures a flow of foreign investments in the global economy without restriction.

ii. Cancelling investment measures that are imposed by the developing countries in the framework of economic and development plans which increase the benefit of foreign companies.
iii. Liberating international trade and foreign direct investment to unprecedented levels in the history of multilateral international agreements.
iv. Setting capital entry and exit to and from the host country for investments freely according to the wishes of foreign companies but not according to the economic plans of the host countries.
v. Making foreign investors able to import all the needs of the production process requirements according to their estimates without restrictions and giving them the freedom to export their products without any obligation to provide for the needs of local market.

6. The Barrier for Developing Countries due to the Convention:

Abdulhamid (2006) stated that the growing foreign investments in the world in recent decades have an important role in the global economies. However, in developing countries, there are two opposing views regarding this role. The first opinion is that foreign investment is not beneficial for the economies of developing countries. The second opinion is that foreign investment supports the processes of economic development. Then, what is the vision of developing countries after they advanced a proposal, Trade-Related Investment Measures (TRIMS) agreement, to industrial countries, particularly the United States?

Developing countries have opposed the abolition of the principles of Trade-Related Investment Measures because the abolition of those actions will not help their economies. Developing countries divided the procedures of foreign investment into two types. The first type is the provision of appropriate incentives to encourage foreign investment in developing states. The second type regards to the procedures or incentives related to the quality of the foreign investment according to economic priorities set by the host state (Hashad, 1995).

According to Jama (2001), developing countries have opposed the proposed Convention, led by India and Egypt and supported by other developing countries, and have suggested limiting negotiations for regulatory restrictions that can be imposed by the host country, which have a direct negative impact on foreign investment.

The opposing stances came from developing countries who wanted to abolish Trade-Related Investment Measures and put the trades under the rules of the GATT. The application of one of the GATT principles is non-discrimination, which means that the treatment of Member States of GATT, the MFN treatment, will lead to a non-flexibility in selecting the most appropriate sources of investment as the choice of foreign investment sources that, in this case, will depend on auctions (Sabri, 2000).

Furthermore, developing countries will be affected by the application of another principle of GATT, i.e. the national treatment principle, since the application of this principle will not differentiate national investment from foreign investment and the size of foreign investment will be higher than the national investment (Youssef, 2005).

Developing countries believe that they need to impose some conditions and requirements for the performance of these investments because the measures of the agreement serve as the basis for the development and industrialization in targeted developing countries. In spite of the reservations made by developing countries and the opposition against the agreement, it was agreed to restrict investment procedures, which is imposed by the developing countries in their economic plans (Abdulhamid, 2006).

7. Summary

The main objectives of this study are to analyze Trade-Related Investment Measures (TRIMs) by identifying the reasons for the agreement and to determine the most important measures for the agreement as well as to identify its most important goals and the its obstacles for developing countries.

TRIMs Agreement is within the WTO, which means that it tries to increase the protection standards for foreign direct investments and multinational companies at the international level and requires all states meet those standards.

Developing countries have opposed the abolition of the principle of TRIMs agreement since they saw that the abolition of these procedures would damage their economies. The agreement was unfair and jeopardized the relationship between developing countries and developed countries, which was confirmed by the adoption of the agreement despite the opposition from developing countries.

The flow of foreign investments will be applied according to the conditions and the strategies of foreign investors, where they direct their investments to sectors that provide a large profit, but developing countries are unable to channel the investments according to their needs and development policies.

Developing countries should unite and cooperate to get a negotiating position in the World Trade Organization aiming at obtaining possible and necessary measures regarding TRIMs agreement and its items so that the foreign investments to be made work in line with their legal status and national legislation and contribute to their economies and development plans.

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