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GLOBAL ENERGY ACTIVITIES IN THE COVID-19 AND THE POST-COVID-19 PERIODS: BRIEF DISCUSSION

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The COVID-19 pandemic is the worst economic shock since the Great Depression in 1930s. It has caused economic decrease in a vast majority of the economic sectors, having also negative social impact. It may deepen social differences and largely contribute to the poverty resulting in that the most vulnerable economic players may lose contact with those developed. It has also negatively affected the global energy markets, bringing price volatility and instability, disrupting some energy supplies, weakening the energy security, hampering energy investments, and increasing unemployment in the energy sector. Strengthening cooperation in the currently globalised world, protecting critical supplies and infrastructure, and keeping multilateralism while following the cornerstone global policies, such as the Sustainable Development Goals, may be of potential to effectively recover from the COVID-19 crisis and immediately continue with the economic growth starting from the point from which the global economic growth dropped. Observing the principle of rule of law in these efforts is crucial without which such growth cannot be reached, as has been experienced from the lessons learned in the past. This also applies to the world trade with its legal framework substantially represented by the WTO law.

Keywords: COVID-19 Pandemic/Crisis, World/Global Trade, Energy Trade/Market, Digital Economy Transformation, Green Energy Transition, EU Taxonomy.

Introduction

Today's era knows the world economy as a place where local problems may swiftly bring about a global challenge. The world economy is facing the biggest crisis since the Great Depression in 1930's due to the COVID-19 pandemic. The pandemic has very negative impacts on the human health and causes severe disruptions to economies, and thus international trade as a whole. There is a legitimate expectation that the multilateralism, in which we have been living, will bring the best solutions to and recovery from the COVID-19 pandemic. This is going to be a topic for the 2021 G20 under the Italian Presidency with its three pillars of action: People, Planet, and Prosperity.¹ The basic tools leading to recovery from the COVID-19 pandemic appear to be (1) digitalisation – digital technology – digital economy transformation and (2) green energy – green energy transition.

If it comes to these two tools – digital and green energy transformation (and not only to these two tools), there is an interesting finding to emphasise, that is, the COVID-19 pandemic

¹ Italian G20 Presidency Priorities. Available at: <www.g20.org>.

has so far demonstrated itself as a catalyst as well as a setback at the same time. On the one hand, digitalisation works as a great tool to overcome problems with the social in-person distancing when various processes (such as education, healthcare, public administration) can move on. This gives a signal and a good proof for digitalisation to stay implemented and improved once the pandemic ends. The same applies for the green energy technology when we see the CO₂ emissions reductions since the COVID-19 pandemic spread all over the world and negatively affected the global economy.¹ This is of potential to reinforce the global efforts to move forward to the green energy technology utilisation only and meeting environmental goals, which are mostly presented in the Paris Agreement². On the other hand, the COVID-19 pandemic has broadened the global poverty and more people has occurred without access to the digital technology equipment or even more to electricity and other energy supplies forming everyday human life. Therefore, the digital transformation, as implemented in the COVID-19 pandemic situation, has widened the social differences and prevented those socially affected by the pandemic the most from the basic social processes (such as education, public administration and control, family relations), thus excluding them from the basic social integration.³ The same in substance with the green energy transformation – the COVID-19 pandemic brought about the economic crisis with a severe impact on employment and investment across all sectors, including energy with its green dimension. According to the International Energy Agency's (IEA) forecasts, the global economy was shrunk by 6% in 2020 that may have led to 300 million jobs being lost during the second quarter of the year.⁴ Based on this economic shock that also spread through energy markets, global energy investment was expected to shrink by an unparalleled 20% in 2020.⁵ The energy projects that are being implemented, mainly the renewable energy projects that have been on the rise, are posed to the economic risks the COVID-19 pandemic brings more than those that are already implemented and firmly generate economic values.

The green energy transformation in its initial stage, in which it is nowadays, has one significant vulnerability worth of mentioning and that should not be omitted, the more in such hard times as it is now during the pandemic situation. The green energy transformation entails moving from conventional energy producing projects that cause unacceptable harm to environment to those that are environmentally friendly and acceptable (these can be conventional – such as nuclear, although its impact on environment remains unsettled – as well as unconventional – such as renewables). Implementing renewable energy projects comes up with the energy security risks associated with their instability in the grids. We experience grid outages that can even lead to massive blackouts that may quite negatively impact the due course of national economies, and mainly the due course in hospitals. The last such event in

¹ United Nations Environment Programme (2020), *'Emissions Gap Report 2020'*. Nairobi.

² Paris Agreement, signed in Paris on 12th December 2015. Article 2(1)(a) of the Paris Agreement sets out its goal to limit global warming to well below 2, preferably to 1.5 degrees Celsius, compared to pre-industrial levels.

³ United Nations Conference on Trade and Development (UNCTAD), *'Impact of the Covid-19 Pandemic on Trade and Development'*. New York: United Nations Publications, 2020, p. 111.

⁴ International Energy Agency (IEA), *'Sustainable Recovery – World Energy Outlook Special Report'*. Revised Version. Paris: IEA, 2020, p. 13.

⁵ *Ibid.*

Europe occurred on 8th January 2021 in the South-East Area of Continental Europe.¹ Without large electricity inputs from the conventional power plants (nuclear power plants – Mochovce, Paks, Krsko – then coal, gas, and hydropower plants) to the related electricity grids, that outage would lead to a massive blackout that lastly happened in Europe in 2006 when more than 15 million households were plunged into darkness for hours².

Issues that may arise with the green energy transformation in the post-COVID-19 stage are that either there will be an excessive enthusiasm in implementing the green energy projects, in terms of renewables, based on the CO₂ emissions reductions achieved during the COVID-19 pandemic period or there will be in substance no or just very slight step forward with the green (renewable) energy transition which will entail return to the pre-COVID-19 period and the CO₂ emissions will record a rapid increase.³ On the other hand, the excessive enthusiasm in the green (renewable) energy transition may come up with the trade distorting effects contrary to the World Trade Organisation (WTO) regime as outlined in chapter 3.

This paper discusses the global energy activities in the COVID-19 and the Post-COVID-19 periods and its point is to identify problems in the global energy sector caused by the COVID-19 pandemic. It strives to find out the recent, current, and future trends in the given sector and match the identified problems with them. Therefore, it does not intend to provide for the best solution for tackling the identified problems, nor does it advocate any approach in energy generation – conventional or unconventional energy sources. A structure of the paper corresponds to its subject as outlined above in the beginning of this paragraph. Chapter 1 sets the scene in the current and future global economy as affected by the COVID-19 pandemic from the perspective of G20, the WTO and the United Nations (UN). Chapter 2 links the discussion with the global energy market and draws the recent, current, and future trends therein with the aim of recovery from the crisis. This chapter is based on data and views provided by the IEA as the leading professional authority in the field. Chapter 3 is final and introduces legal concerns with the issues identified in the previous chapters on the particular example. This chapter serves as a case study. The paper expects that the trends (recent, current, and future) in the global energy market are set in favour of green energy transition which may face legal problems if not reasonably considered. The discussion is formed using a description, comparison, and analysis of facts; matching results thereof with legal acts; and conducting a legal analysis.

I. Covid-19 and world trade

The COVID-19 crisis has had a very negative economic and social impact, with more than 2.3 million deaths and more than 43 million confirmed cases up to February 2021.⁴ The recent WTO forecast estimates a 9.2% decline in the volume of world merchandise trade for

¹ European Network of Transmission System Operators (ENTSO-E), *'System Separation in the Continental Europe Synchronous Area on 8th January 2021 – update'*. 2021. Available at: <www.entsoe.eu>.

² STARN, J.; PARKIN, B.; and VILCU, I *'The Day Europe's Power Grid Came Close to a Massive Blackout'*. In.: Bloomberg, 2021. Available at: <www.bloomberg.com>.

³ Emissions Gap Report 2020, *supra* note 2, p. 16.

⁴ See the actual official data provided by the World Health Organisation which are available at: <<https://covid19.who.int/>>.

2020 compared to 2019 and 7.2% rise in 2021.¹ In addition, the World Bank forecasted in 2020 that if the COVID-19 pandemic persisted, the global gross domestic product (GDP) could shrink by approx. 8% in 2020.² United Nations Conference on Trade and Development (UNCTAD) expected the global GDP to fall by around 4.3% in 2020, with a global recovery of 4.1% in 2021.³ The WTO came up with a slightly different but similar estimations when it forecasted that the global GDP would fall by 4.8 % in 2020 followed by a rise by 4.9% in 2021.⁴ According to the UNCTAD, the developed countries are expected to be more affected by the COVID-19 crisis in the GDP growth than developing countries for years of 2020 and 2021.⁵ However, all the estimates are quite relative and sensitive to any relevant circumstances as they are subject to high degree of uncertainty caused by the evolution of the COVID-19 pandemic and government responses to it. Overall, the downside risks in the world trade still predominate as the COVID-19 cases resurge and the pandemic thus remains untackled.

The course of the world trade is shaped by the nature of the COVID-19 pandemic and policies taken to combat it. The WTO forecast of the 7.2% rebound of the world volume growth from October 2020 seems not to match with reality. The forecast might have counted with positive effects of vaccines that were at the stage immediately before applying for certification at the time the forecast was being made. Vaccines are expected to have positive impact on world trade in the way that the trade-restrictive measures taken by governments are withdrawn. These trade-restrictive measures are embraced by lockdowns that imposed significant supply-side constraints on national economies, reducing output and employment even in sectors that are usually resistant to business-cycle fluctuations.⁶ As a tool reducing negative impacts of lockdowns, governments has taken monetary and fiscal policies generating at least a minimum income with the aim to rebound consumption, imports, and exports once lockdowns are eased and ultimately ceased.

Although similar in magnitude, the COVID-19 crisis is different in context to the global financial crisis of 2008-2009. The contraction in GDP is significant while fall in trade is moderate.⁷ Governments impose trade-restrictive measures as a reaction to the pandemic evolution, not to the economic situation. This is well reflected when trade in goods and services recorded a dramatic fall from the peak in the spring 2020 when COVID-19 pandemic has spread all over the world. The trade in goods and services started to rise in the summer after the pandemic was getting under control of governments which reacted by easing the strict trade-restrictive measures – lockdowns. As a consequence of this releasing approach, the pandemic got out of control of governments, thus stepping back to introducing strict lockdowns. The trade in goods and services detected more dramatic decline in the second quarter compared to

¹ WTO, *'COVID-19 and Beyond: Trade and Health'*. Communication from Australia, Brazil, Canada, Chile, the EU, Japan, Kenya, Republic of Korea, Mexico, New Zealand, Norway, Singapore, and Switzerland. WT/GC/223, 24th November 2020, p. 1.

² *Ibid.*

³ UNCTAD, *'Impact of the Covid-19 Pandemic on Trade and Development'*. Supra note 4, p. 13.

⁴ WTO, *'Trade shows signs of rebound from COVID-19, recovery still uncertain'*. Press release, 6th October 2020. Available at: <www.wto.org>.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

the first quarter of 2020.¹ The COVID-19 pandemic has devastated trade in certain types of goods (manufactured, automotive, etc.) while boosting trade in certain other goods (medicine products, certain chemicals, agriculture products, electronics, etc.).² There is no substantial difference between the current course of trade in goods and trade in services, both as affected by the COVID-19 pandemic. The fall in trade in services has been at least as strong as in merchandise trade. The WTO estimates that the volume of the trade in services has fallen by approx. 27% during the pandemic.³ Foreign direct investment (FDI) flows (i.e. FDI flow to developed and developing countries together) are forecast to decrease by up to 40% in 2020 compared to 2019 and the global unemployment rate significantly increased in 2020.⁴ Global manufacturing output in the first quarter of 2020 fell by almost 6 % as compared to the same quarter of 2019 and this decreasing trend even deepened in the second quarter of 2020 of more than 11%.⁵ This was the biggest fall in the manufacturing output since the global financial crisis of 2008-2009.

The COVID-19 crisis has a negative impact on poverty. The United Nations (UN) baselines indicates possible declines in global output by 3.2% and a number of people in extreme poverty may increase by 34.3 million in 2020, 56% of which represents Africa.⁶ Most countries in Africa and least developed countries (LDCs) heavily depend on the extractive industries as sources of growth and income. These industries have low potential for employment and have limited links with the rest of the economy. Furthermore, these industries are quite capital intensive and record volatility of the commodity prices. Estimates of the World Bank go even further with increase in the global poverty by 100 million people in 2020.⁷ It is recommended to these countries to diversify the sources of growth and income through building productive capacities, particularly investing in manufacturing.

The international trade plays an important role in securing and providing goods and services that satisfy the basic human needs. This regards a trade in medicines, medical products, health care services, agricultural products, and energy products and services. This also applies in times during the COVID-19 pandemic in the way that international trade provide such goods and services to countries affected by the pandemic and which are not self-reliant for the products, equipment, and services they need for the due course of their public health systems. In order to protect life, health, and morals of their citizens, WTO members are allowed to take such measures as they deem necessary in the given circumstances while meeting the strict requirements provided for in the WTO rules. Basically, these measures cannot be applied in a manner that discriminate between WTO members and cannot constitute disguised restrictions on international trade. The WTO rules-based system provides for a broad extent of such measures in which they can also take a form of import and export bans, quantitative

¹ UNCTAD, *'Impact of the Covid-19 Pandemic on Trade and Development'*. Supra note 4, fig. 1.3 and 1.4, p. 13.

² WTO, *'Trade shows signs of rebound from COVID-19, recovery still uncertain'*. Supra note 14, chart 6. Available at: <www.wto.org>.

³ WTO. *'The WTO and COVID-19'*. Available at: <www.wto.org>.

⁴ UNCTAD, *'Impact of the Covid-19 Pandemic on Trade and Development'*. Supra note 4, pp. 17, 20.

⁵ *Ibid.*, p. 20.

⁶ *Ibid.*, p. 26.

⁷ World Bank. (n/d). *'Projected Poverty Impacts of COVID-19'*. Available at: <www.worldbank.org>.

restrictions on imports and exports, non-automatic import licensing, non-tariff barriers to trade, government supports (including subsidies), etc. That is to say, that the measures taken by governments in order to effectively fight against the COVID-19 pandemic may be of types that are otherwise prohibited by the WTO rules. This scope is substantially set up by the general exceptions under the core WTO agreements – the General Agreement on Tariffs and Trade (GATT) 1994 and the General Agreement on Trade in Services (GATS). There are three particular agreements that function under the umbrella of general exceptions set out in these two basic WTO agreements, on the basis of which governments impose measures contributing to the COVID-19 pandemic mitigation. The first is the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPS) that help secure affordable access to life-saving drugs through the WTO-compliant compulsory licensing procedures in cases where such drugs were unaffordable or widely unavailable. The second agreement is the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) which is necessary for the protection of human, animal, and plant life or health. The third agreement is the Agreement on Technical Barriers to Trade (TBT Agreement) that ensures the protection of public safety.

According to the WTO data monitored as of 1st December 2020, approx. two-thirds of notifications by WTO members related to COVID-19 dealt with product standards and regulations, or procedures assessing conformity with such measures.¹ In other words, these notifications were submitted under the TBT Agreement and the SPS Agreement by 38 WTO members. Those standards, regulations, and procedures covered trade in personal protective equipment (PPE), food, live animals, plant products, live animals, medicines (pharmaceuticals), medical supplies, medical equipment, etc.² The TBT measures in this regard aimed at facilitating conformity assessment of PPE and other medical equipment. The aim of these measures was to ensure expedited access to and increased supplies of that equipment. On the other hand, the SPS measures aimed at facilitating trade through increasing a number of e-certificates, mainly for plant and animal products.³ Approximately half of these (TBT and SPS) measures were of temporary duration as they were imposed as a response to emergency/urgent cases of pressing health problems caused by the COVID-19 pandemic.⁴ Some of them have already been lifted. The notified measures were divided into four broad categories: streamlining certification and related procedures, ensuring safe medical use, making food available by relaxing technical regulations, and addressing COVID-19 risks from international trade of live animals and animal products.⁵

The G20 through its trade and investment ministers, who met virtually in September 2020 under the G20 Saudi Presidency, stated that the global trade and investment is posed to COVID-19 as the biggest challenge for the world economy. In order to adequately react to negative effects of the COVID-19 pandemic on the global trade and economy, the G20 has to further strengthen its trade and investment cooperation which in concrete terms means that the G20 has to (1) support recovery of international trade and investment; (2) support the

¹ WTO. 'Standards, Regulations and COVID-19 – What Actions Taken by WTO Members?'. Information Note, 4th December 2020, p. 1. Available at: <www.wto.org>.

² *Ibid.*, fig.2, p. 3.

³ *Ibid.*, p. 6.

⁴ *Ibid.*, pp. 3, 6.

⁵ *Ibid.*, pp. 4, 5, 6.

necessary WTO reform; (3) encourage the substantially increased competitiveness of Micro, Small, and Medium-Sized Enterprises (MSMEs); (4) promote and support economic diversification, and (5) strengthen international investment.¹ The G20 furthermore sets up its pandemic-related policy construed for the effective fight against pandemic and which is expected to lead to the global economic recovery.² A key tool of this policy is trade and investment which secure the so much needed cooperation in today's globalised world. Trade and investment cooperation unites strengths that are expected to bring the recovery from the pandemic. The G20 underscores that particularly in this critical time, trade and investment must act as engines of growth, productivity, innovation, job creation, development, and poverty reduction. The G20 through this policy intends to keep the global economic growth that meets requirements for implementation of the Sustainable Development Goals, even in such hard pandemic time. This economic growth must however be sustainable, balanced, and inclusive, thus being in line with the direction established by the G20 (as well as other international platforms and organisations, such as the UN, the WTO) before the COVID-19 pandemic has arisen.

The G20 has prepared and continue to endorse the "G20 Actions to Support World Trade and Investment in Response to COVID-19 pandemic".³ These G20 Actions are aimed at removing the trade restrictive measures and implementation of trade facilitation measures applying, among other things, the WTO Agreement on Trade Facilitation, with the special focus paid on Art. 7.1 (Pre-arrival Processing), Art. 7.3 (Separation of Release from Final Determination of Customs Duties, Taxes, Fees, and Charges), and Art. 7.8 (Expedited Shipment) of the WTO Agreement on Trade Facilitation. Since the trade relations in the global economy are interconnected, thus globalised, the G20 considers preserving the multilateral trading system to play one of its important tasks to do to reach recovery from the pandemic. There are concerns that one of the challenges of the pandemic for the global trade is stepping back from multilateralism to protectionism which may negatively affect the fight against the pandemic, for example by substantially reduced spread of the vaccines, essential agricultural products, and electronics around the world resulting in the negative global economic growth. What is interesting to note is that the G20 puts the digital economy and e-commerce among the critical activities that help sustain the global economy during the hard times of the COVID-19 pandemic, although bearing in mind the lack of access to the digital economy for many vulnerable citizens due to the persistence of the digital divide.⁴ Taking into account the current trends leading to achieve a new era of Industry 4.0, it seems that the G20 prepares for a transformation to the digital economy that may be one of few tremendous gains from the fight against pandemic in the post-COVID-19 times. Recalling the Osaka Leaders Declaration and the Tsukuba Trade and Digital Economy Ministers Statement, reaffirming the interface between trade and the digital economy, noting the ongoing discussions under the Joint Statement

¹ WTO. WT/GC/221, Communiqué from the G20 Trade and Investment Ministerial Meeting, 22nd September 2020, p. 1, para. 3.

² *Ibid.*

³ G20. 'G20 Actions to Support World Trade and Investment in Response to COVID-19'. Ministerial Statement from the G20 Trade and Investment Ministerial Meeting, 14th May 2020. Available at: <<http://www.g20.utoronto.ca>>.

⁴ Communiqué from the G20 Trade and Investment Ministerial Meeting, *supra* note 30, p. 2, para. 11.

Initiative on Electronic Commerce and the Moratorium on Customs Duties on Electronic Transmissions, and last but not least reaffirming the need to reinvigorate the Work Program on Electronic Commerce at the WTO,¹ all this way of thinking and shaping the direction of action only supports the aforementioned considerations for the G20's intentions of transformation to the digital global economy.

II. Global Energy Trade during the Pandemic and Afterwards

The course of the global energy market has been quite volatile, with a major drop in the oil prices in April 2020.² This has a quite negative consequences on countries in which production and export of oil and gas forms a central source of financing national budgets. Adjusted to the particular national environments of selected countries that are dependent on revenues from business with their oil and gas sources, oil and gas incomes in producing countries such as Iraq, Algeria, Oman, and Angola were expected to fall by approx. 80% in 2020.³ According to the IEA estimations, the total primary energy demand would have dropped in the global energy market by around 6% in 2020. This is to say that compared to the global financial crisis in 2008-2009, the COVID-19 crisis may record seven-times larger shock to the global energy market. Elaborated on this fall in concrete numbers in certain sectors of the energy industry, the drop in demand in 2020 was expected to be: 8% for oil, 4% for natural gas, 8% for coal, 2.5% for nuclear, 20% for electricity, and some fall in demand for biofuels.⁴ What is worth of mentioning is that the opposite trend in 2020 was expected for renewables where it was expected that their generation would rise by around 5%. This energy demand drop led to a significant reduction of CO2 emissions but it does not mean that such trend will continue once the pandemic is over. As was noted earlier in this paper, the UN estimates that there will be a significant come back in emissions rise after the pandemic is left. This is because such reductions are results of the economic activity (how the world produces and consumes energy) rather than structural changes.

The volatile energy prices and suppressed energy demand leaves energy companies in weakened financial position. Adding to this situation national lockdowns and related limitations, energy companies has shrunk their spending to minimum, left their employees working from home (those whose work allows home office) and as a result, supply chains became less effective. Therefore, it was expected that investment in the energy sector would record a sharp decline in 2020 with a reduction of one-fifth (400 billion US dollars) in capital spending compared to 2019.⁵ Softened energy investment power and weakened financial position of energy employers leads to cut-offs in the employment. The energy industry globally employed approx. 40 million people in 2019. According to the IEA, around 0.6 million jobs in the energy industry were lost in 2020⁶ and this trend is expected to continue in 2021. The

¹ *Ibid.*

² The Bloomberg and World Bank. *'The Oil Market Outlook: Lasting Scars from the Pandemic'*. Available at: <<https://blogs.worldbank.org>>.

³ International Energy Agency (IEA). *'Sustainable Recovery – World Energy Outlook Special Report'*. Revised Version. Paris: IEA, 2020, p. 20.

⁴ *Ibid.*, p. 22.

⁵ *Ibid.*, p. 24.

⁶ *Ibid.*, p. 27.

decline in energy investment first and foremost hits new and planned energy projects in the way that they appear to be on hold. Some of them will resume immediately after the pandemic is over or the lockdown measures are lifted, but others may recover slowly or in longer time period. For instance, the demand, investment, and jobs in power sector are likely to be less affected, therefore it is expected that recovery in this sector may react to the pandemic limitation releases immediately.

The question of how to recover from the pandemic situation employs government around the world. To create well-designed packages of measures that will support the economic recovery is a difficult task. The IEA confirms the G20's views that international cooperation is necessary, also in the energy sector. Many governments are predominantly focused on emergency relief packages in the health sector, try to remain the financial stability in their countries, and provide emergency support to households and businesses. The energy sector is involved in many emergency plans but not as a primary target. The current energy related-measures regard (1) focus on energy security and opportunities provided by lower prices (e.g. boosting strategic oil reserves expecting longer term benefits for global energy security), (2) revising or reaffirming commitments to clean energy transition (e.g. the EU and its member states are implementing measures to accelerate clean energy transitions, such as the EU Taxonomy Regulation discussed in chapter 3 below), and (3) creating safety nets for companies and consumers (e.g. measures imposed by governments to defer energy bills or provide support for vulnerable households and businesses).¹ In order to effectively recover from the COVID-19 pandemic and to adopt the appropriate measures contributing to such recovery, governments and international community should look at the lessons learned from the 2008-2009 global financial crisis. First, enhancing successful existing policies usually brings about the biggest economic and employment returns. This regards the case when the US and Germany increased investments to renewable energy projects that were quite capital intensive during the pre-crisis time.² Second, the promising strengthened green energy transition after the COVID-19 pandemic may cause changes in the monetary environment. The central banks make national markets attractive for new investment projects by lowering the interest rates and increasing quantitative easing programmes. However, this may worsen the economic situation in the national markets of developing countries as they have been increasing their capital outflows. This may thus lead to inability of such countries to launch large investment programmes. Third, there is substantial volatility in the fossil fuel markets as mentioned above. Such turbulences create instabilities and uncertainties which may cause problems for producers and many companies to harvest revenues and make reserves necessary for their future investment activities. Fourth, the COVID-19 pandemic enables to gain awareness of the benefits of clean and secure energy. It is because the implemented lockdowns reduced transport, economic activities of the industries linked to the oil and coal use which results in reduced CO₂ emissions. According to the UNEP, global CO₂ emissions in 2020 may have dropped by approx. 7% below 2019 levels.³ However, this decreasing trend may immediately

¹ *Ibid.*, p. 32.

² Mundaca, L. and J. Richter (2015). 'Assessing 'green energy economy' stimulus packages: Evidence from the US programs targeting renewable energy'. *Renewable and Sustainable Energy Reviews*, Vol. 42, pp. 1174-1186.

³ Emissions Gap Report 2020, *supra* note 2, p. 31.

return to the 2019 levels once the pandemic is left. This scenario in the CO₂ emissions grow was also recorded during the 2008-2009 global economic crisis which is highly probable to repeat in the current COVID-19 crisis. Fifth and finally, it is possible that changes in the human behavior caused by the COVID-19 pandemic will persistently remain. For example, working from home, reduced business and commuter journeys, and potentially reducing air pollution in the cities is connected with a new transformation to digital economy that is just being built. On the other hand, there may be potential lasting reluctance to use public transport, thus impeding efforts to reduce air pollution and decarbonise transport.¹

Suggestions for the electricity sector to recover from the COVID-19 crisis are the following: expand and modernise grids, accelerate the growth of wind and solar PV, maintain the role of nuclear and hydro power, and manage gas and coal-fired power generation.² It is suggested for industry to improve energy efficiency and electrification and to expand waste and material recycling.³ The fuel sector mainly represented by oil and gas, which meet more than half of global primary energy demand nowadays, is suggested to reduce methane emissions from oil and gas operations, reform fossil fuel subsidies, and support and expand the use of biofuels.⁴ As for the technology innovation, the green technology innovation is the most strategic technology innovation in the energy sector. It is a key priority to achieve longer term sustainability targets. According to the IEA, without such innovation, the transition to modern, clean, and resilient energy systems would be posed to risk.⁵ It also significantly resonates in the recovery from the COVID-19 pandemic because it contributes to energy resilience and security of supply, future competitiveness, and emissions reductions.⁶ The IEA defines four major technology innovations that should be utilised in the energy sector to the greatest extent possible: hydrogen technology with its applicability throughout various sectors, batteries that are necessary for electrification of road transport and the integration of renewables in the power markets, small modular nuclear reactors that are important in the future power generation sector and that demonstrate nuclear energy as a vital element of the electricity generation and the power sector as a whole, and last but not least carbon capture, utilisation and storage significantly contributing to reaching net-zero emissions.⁷

Digital economy transformation and green energy transition are key elements of a new era that is called Industry 4.0. As was mentioned above in the first chapter, these two elements must be in line with the international law, particularly with the WTO law if speaking about involvement of those two elements in the world trade relations. It is well known that the global leader in the net-zero emissions economy, which is being implemented mainly by renewable energy generation and consumption, is the EU. In order to continue with its efforts to reach the net-zero emissions economy by 2050, it comes up with legal regulation that sets out borders in this sustainable growth way. One of the activities that is freshly regulated by the EU legislation is the EU Taxonomy determining sustainable activities allowed for special financing.

¹ Sustainable Recovery – World Energy Outlook Special Report, *supra* note 36, p. 35.

² *Ibid.*, pp. 43-45.

³ *Ibid.*, pp. 80-81.

⁴ *Ibid.*, pp. 86-87.

⁵ *Ibid.*, p. 96.

⁶ *Ibid.*, p. 96.

⁷ *Ibid.*, pp. 96-97.

The EU Taxonomy is elaborated below and this paper takes it as an example on which this paper demonstrates that any measure contributing to new economic transformation may lead to legal infringements if not carefully prepared.

III. Case Study: Exclusion of Nuclear Energy from the EU Taxonomy and The WTO Law

On 28th May 2018 the EU Commission launched a preparatory work for the draft Regulation on the establishment of a framework to facilitate sustainable investment (the so-called and hereinafter referred to as the “*Taxonomy Regulation*”)¹ and established the Technical Expert Group (TEG) to create the EU Taxonomy. The Taxonomy Regulation entered into force on 12th July 2020. The EU Taxonomy represents the EU classification system that provides a common language on what constitutes sustainable activities, which are allowed to apply for environmentally sustainable investments or investments having similar characteristics. According to Article 1 of the Taxonomy Regulation, the EU Taxonomy guides the taxonomy users - the EU Member States or the EU itself (when adopting requirements on market actors with respect to financial products or corporate bonds marketed as environmentally sustainable) and financial market participants (when offering financial products as environmentally sustainable investments or as investments having similar characteristics) - how to determine whether an economic activity is environmentally sustainable through the specific criteria. In total, this measure is to achieve the goal of re-orienting capital flows towards sustainable investment.

The TEG took nuclear energy under consideration as part of its review on energy generation activities and came to the conclusion that nuclear energy has near to zero greenhouse gas emissions in the energy generation phase and can contribute to the environmental objectives.² Although nuclear-related energy generation activities meet the three criteria set out in Article 3 of the Taxonomy Regulation, the do no significant harm to any other environmental objective (DNSH) criteria remains concerned since there are still empirical data gaps on the key DNSH issues. For instance, these issues relate to, *inter alia*, the long-term management of High-Level Waste (HLW), to which the international consensus applies that a stable technical solution is necessary to solve the current unsustainable situation. Based on the fact that there is no viable, safe, and long-term underground repository in the world from which long-term empirical, in-situ data and evidence would be taken, it was not possible for the TEG to conduct a robust DNSH assessment with respect to nuclear-related energy generation activities. Therefore, the TEG has not included nuclear energy in the EU Taxonomy at the stage of issuing its report.³ However, the issue of involvement of nuclear energy in the EU Taxonomy is not settled so far and is currently under the consideration of the

¹ Regulation (EU) 2020/852 of the European Parliament and of the Council of 18th June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088. See also COM(2018) 353 final. 2018/0718(COD). Proposal for a Regulation of the EU Parliament and of the Council on the establishment of a framework to facilitate sustainable investment.

² EU Technical Expert Group on Sustainable Finance. ‘*Taxonomy: Final report of the Technical Expert Group on Sustainable Finance – Technical Annex*’. March 2020, p. 209.

³ *Ibid.*, p. 210.

experts (organised within the EU Joint Research Centre) that will definitively decide whether to include nuclear energy in the EU Taxonomy or not.

Exclusion of nuclear energy from the EU Taxonomy has a potential to bring about negative consequences for the EU. The electricity market in the EU goes through fast changes and one of them relates to renewable energy-related technology implementation. The EU Member States as well as countries outside the EU build new electricity interconnectors in the EU energy market. Taking into account a raising force and share of renewable energy-related technology in electricity generation, transportation, and distribution in the EU energy market, the exclusion of nuclear energy from the EU Taxonomy may be of concern for investors from the EU Member States as well as from non-EU countries exporting their electricity into the EU market. The EU Member States which the EU Taxonomy without nuclear energy included in the list of sustainable, '*Taxonomy/eligible*' economic activities the most affects countries which share of nuclear in electricity production is substantial and, at the same time, which level of electricity exports within the EU market is significant (both compared to other EU Member States). These EU Member States are mainly France (emphasis added) (share of nuclear in electricity production is 72%¹ and the level of electricity exports is 80.30 billion kilowatthours², both in 2017) and Sweden (share of nuclear in electricity production is 40%³ and the level of electricity exports is 30.89 billion kilowatthours⁴, both in 2017). The same two prerequisites (i.e. the substantial share of nuclear in electricity production and the significant level of electricity exports into the EU energy market, both compared to other countries) apply to non-EU countries, mainly Switzerland (share of nuclear in electricity production is 34%⁵ and the level of electricity exports is 30.95 billion kilowatthours⁶, both in 2017) and Russia (share of nuclear in electricity production is 19%⁷ and the level of electricity exports is 17.01 billion kilowatthours⁸, both in 2017). All these countries export electricity to neighbouring countries

¹ According to the 2017 International Energy Agency (IEA) statistics. See IEA atlas of energy available at: <<http://energyatlas.iea.org>>.

² See the U.S. Energy Information administration (EIA) 2017 electricity exports statistics available at: <https://www.theglobaleconomy.com/rankings/electricity_exports/>; and <<https://www.eia.gov/>>.

³ According to the 2017 International Energy Agency (IEA) statistics. See IEA atlas of energy available at: <<http://energyatlas.iea.org>>.

⁴ See the U.S. Energy Information administration (EIA) 2017 electricity exports statistics available at: <https://www.theglobaleconomy.com/rankings/electricity_exports/>; and <<https://www.eia.gov/>>.

⁵ According to the 2017 International Energy Agency (IEA) statistics. See IEA atlas of energy available at: <<http://energyatlas.iea.org>>.

⁶ See the U.S. Energy Information administration (EIA) 2017 electricity exports statistics available at: <https://www.theglobaleconomy.com/rankings/electricity_exports/>; and <<https://www.eia.gov/>>.

⁷ According to the 2017 International Energy Agency (IEA) statistics. See IEA atlas of energy available at: <<http://energyatlas.iea.org>>.

⁸ According to the 2017 International Energy Agency (IEA) statistics. See IEA atlas of energy available at: <<http://energyatlas.iea.org>>.

or even further and some of them plan to extend their high voltage interconnectors and transformation systems.¹

The question that may arise in case of exclusion of the nuclear energy from the EU Taxonomy is that if the electricity generation activities covered by the EU Taxonomy were provided treatment more favourable through receiving better investment support than nuclear-related electricity generation activities, whether the nuclear-related electricity generation activities are discriminated in comparison to the '*Taxonomy eligible*' electricity generation activities that would thus be given more *opportunities to trade*. If any EU Member State would deem itself discriminated, it could make a recourse to the Court of Justice of the European Union (CJEU) to decide whether the EU non-discriminatory legal norms were broken. Such EU Member State could at the same time initiate proceedings before the WTO claiming that the EU violates its obligations under Article V(1) of the General Agreement on Trade in Services (GATS). Although it is possible to parallelly maintain several legal proceedings under international law, in this case before the CJEU and the WTO², it would be in this respect reasonable to go through the CJEU proceedings and if the CJEU would not find breaching the respective EU non-discriminatory norms, the EU Member State concerned could proceed before the WTO. This suggested order takes into account '*inflexible*' (as some commentators say) exclusive jurisdiction provisions of Article 344 of the Treaty on the Functioning of the European Union (TFEU) and Article 3(2) of the Understanding on Rules and Procedures Governing the Settlement of Disputes (hereinafter referred to as the "*Dispute Settlement Understanding*" or the "*DSU*"). If it comes to non-EU countries that would consider themselves discriminated by such EU regulation, they could directly bring the case against the EU before the WTO claiming violation by the EU of its WTO national treatment obligations under Article XVII of the GATS.

Turning to the WTO context only, the *de facto* discrimination under Article XVII of the GATS would be in concern in both cases (where claimant would be the EU Member or the non-EU country), since the measure at issue would seem the '*origin neutral*' but in fact would discriminate countries with the substantial share of nuclear in electricity production and with significant level of electricity exports either within or into the EU energy market. In order to identify whether a measure at issue (i.e. the Taxonomy Regulation) is consistent with the

¹ See Second report of the Commission of Expert Group on electricity interconnection targets: '*Electricity interconnections with neighbouring countries*'. Available at: <<https://ec.europa.eu>>; '*Power interconnector between Germany and Sweden*'. Available at: <<https://www.cleanenergywire.org/news/vw-seeks-e-car-quota-deal-china-swedish-german-power-connection/power-interconnector-between-germany-and-sweden>>; and information about the Celtic Interconnector available at: <<https://www.celticinterconnector.eu/ga/>>.

² See in this respect *Swordfish dispute* between the EU and Chile regarding a controversy over swordfish fisheries in the South Pacific. This dispute was brought by Chile before the International Tribunal of the Law of the Sea (ITLOS) and by the EU before the WTO, in parallel. The dispute has been suspended as a result of an interim settlement agreement. Another similar dispute is the *MOX Plant case* between Ireland and the UK that was brought before the ITLOS and the CJEU, in parallel. In this case, the ITLOS however suspended hearings due to the real possibility of proceedings being instituted against Ireland before the CJEU for an alleged breach of Article 344 of the Treaty on the Functioning of the EU (TFEU) (ex Article 292 TEC).

national treatment obligation of Article XVII:1 of the GATS, the following four questions must be answered:¹

1. Has a WTO Member committed itself to grant '*national treatment*' in respect of services sector and mode of supply at issue?
2. Is the measure at issue (i.e. the Taxonomy Regulation) a measure affecting trade in services, i.e. a measure to which the GATS apply?
3. Are the foreign and domestic services or service suppliers '*like services*' or '*like service suppliers*'?
4. Are the foreign services or service suppliers accorded '*treatment no less favourable*'?

If all these questions were answered positively with respect to the Taxonomy Regulation without inclusion of nuclear energy in the list of sustainable '*Taxonomy-eligible*' economic activities, the Taxonomy Regulation would be consistent with the national treatment obligation of the EU under Article XVII of the GATS. The Panel in *EC – Bananas III* upheld this four-tier test of consistency with Article XVII:1 of the GATS in its analysis of consistency of the EC licensing regime for the importation of bananas.²

The national treatment obligation under Article XVII applies only to measures affecting trade in services to the extent that a WTO Member has explicitly committed itself to grant '*national treatment*' in respect of specific services sectors. The EU grants '*national treatment*' to electricity generation services through its horizontal commitments to all sectors included in the Schedule of Specific Commitments.³

Whether the Taxonomy Regulation excluding nuclear from the list of sustainable economic activities would affect trade in services, it is first necessary to define the terms '*measure*', '*services*', and '*trade in services*'. Article I:1 establishes the scope of measures covered by the GATS. Only the '*measures by Members affecting trade in services*' are subject to the General Agreement on Tariffs and Trade (GATT) regulation. That is to say that where the GATS provisions include the plain word '*measures*' without any further specification relating to those belonging to Members and affecting trade in services (such as Article XVII of the GATS), this word means '*measures by Members affecting trade in services*'. These '*measures by Members*' are measures taken by central, regional, and local governments and authorities, but also measures taken by non-governmental bodies in the exercise of governmental authority delegated to them.⁴ A measure affects trade in services when bearing upon the conditions of competition in the supply of a service.⁵ Article I:3(b) of the GATS sets out very broad approach in setting the

¹ VAN DEN BOSSCHE, P. *The Law and Policy of the World Trade Organization: Text, Cases and Materials*. 4th ed. Cambridge: Cambridge University Press, 2017, p. 402. ISBN 978-1-316-61052-7; and VAN DEN BOSSCHE, P. and PRÉVOST, D. *Essentials of WTO Law*. New York: Cambridge University Press, 2016, p. 43. ISBN 978-1-107-63893-8.

² Panel Report, *EC – Bananas III* (1997), para 7.314.

³ See GATS/SC/157. 7th May 2019. Schedule of Specific Commitments of the EU. Available at: <docs.wto.org>.

⁴ See Article I:3(a) of the GATS.

⁵ VAN DEN BOSSCHE, P. *The Law and Policy of the World Trade Organization: Text, Cases and Materials*. 4th ed. Cambridge: Cambridge University Press, 2017, p. 404. ISBN 978-1-316-61052-7; and VAN DEN

scope of, thus not defining, the term 'services' that includes any service in any sector. The only services that are not included in the term 'services' covered by the GATS are services supplied in the exercise of governmental authority, i.e. services supplied neither on a commercial basis nor in competition with one or more service suppliers¹ (e.g. police or military services, but this can vary from one WTO Member to another). The term 'trade in services' is defined by Article I:2 of the GATS as the 'supply of a service' through one of the following four modes of supply:²

- a) the cross border mode of supply (Article I:2(a) of the GATS);
- b) the consumption abroad mode of supply (Article I:2(b) of the GATS);
- c) the commercial presence mode of supply (Article I:2(c) of the GATS); and
- d) the presence of natural persons mode of supply (Article I:2(d) of the GATS).

From the aforementioned, it is obvious that the Taxonomy Regulation excluding nuclear from the list of sustainable economic activities would be a 'measure by Member affecting trade in services' because it would be a measure adopted, and thus belonging to, the central government that would cover the electricity generation activities and relate to the commercial presence mode of supply according to Article I:2(c) of the GATS (i.e. in which the service supplier of one WTO Member has any type of business or professional establishment in the territory of any other WTO Member country of the service recipient).

As for determination of likeness, the Panel *China – Electronic Payment Services (2012)* rules that determination of likeness under Article XVII:1 should "take into account the particular circumstances of each case"³ and thus "should be made on case-by-case basis"⁴. Furthermore, the Panel therein held that such determination "should be based on arguments and evidence that pertain to the competitive relationship of the services being compared"⁵ and "must be based on the basis of evidence as a whole"⁶. It also ruled that services are 'like' for the purposes of Article XVII:1 if:

"... it is determined that the services in question in a particular case are essentially or generally the same in competitive terms"⁷

The Appellate Body in *Argentina – Financial Services (2016)* clarified that:

BOSSCHE, P. and PRÉVOST, D. 'Essentials of WTO Law'. New York: Cambridge University Press, 2016, p. 26. ISBN 978-1-107-63893-8.

¹ See Article I:3(c) of the GATS.

² VAN DEN BOSSCHE, P. 'The Law and Policy of the World Trade Organization: Text, Cases and Materials'. 4th ed. Cambridge: Cambridge University Press, 2017, p. 329. ISBN 978-1-316-61052-7; and VAN DEN BOSSCHE, P. and PRÉVOST, D. 'Essentials of WTO Law'. New York: Cambridge University Press, 2016, pp. 24-25. ISBN 978-1-107-63893-8.

³ Panel Report, *China – Electronic Payment Services (2012)*, para. 7.701.

⁴ *Ibid.*

⁵ *Ibid.*, para. 7.702

⁶ *Ibid.*

⁷ *Ibid.*

“... the analysis of ‘likeness’ serves the same purpose in the context of both trade in goods and trade in services, namely, to determine whether the products or services and service suppliers, respectively, are in a competitive relationship with each other”¹

In addition, the Appellate Body therein clarified that the following criteria, which are not treaty-mandated nor do they represent a closed list, could be relevant for determining ‘likeness’ under the GATS:

- a) characteristics of services and service suppliers;
- b) consumers’ preferences in respect of services and service suppliers; and
- c) tariff classification and description of services under, for example, the UN Central Product Classification (CPC).²

In case of the Taxonomy Regulation excluding nuclear from the list of sustainable economic activities, the task would be to determine whether the electricity generation from nuclear, on one hand, and electricity generation from gas and renewable energy sources, on the other, are ‘like’. Taking into account all that mentioned above and mainly those three criteria, it is very difficult in this stage of writing this paper to determine likeness between the two activities/services, since more detailed data and evidence is lacking. However, very roughly said, it could be possible to state that these activities/services are like, thus likeness between them cannot be *apriori* excluded from consideration, but the additional data are necessary to conclude this task.

If coming to the conclusion that the two services are ‘like’, it is then the last element of the four-step test – ‘*treatment no less favourable*’ – that would determine consistency of the Taxonomy Regulation excluding nuclear from the list of sustainable economic activities with the national treatment obligation under Article XVII:1 of the GATS. Article XVII:3 of the GATS states that treatment (whether formally identical or formally different) is considered less favourable “*if it modifies the conditions of competition in favour of services or service suppliers of the Member compared to like services or service suppliers of any other Member*”³. The Appellate Body in *Argentina – Financial Services (2016)* ruled that the concept/legal standard of ‘*treatment no less favourable*’ in Articles II:1 and XVII of the GATS:

“... focuses on a measure’s modification of the conditions of competition, and does not contemplate a separate and additional inquiry into the regulatory objective of, or the regulatory concerns underlying, the contested measure.”⁴

Thus, if the two services related to electricity generation are firmly found ‘like’ (which is possible and *apriori* not subject to exclusion from consideration), it would be possible to conclude that conditions of competition between the two would be modified in favour of services related to electricity generation included in the list of sustainable economic activities being part of the Taxonomy Regulation through providing these ‘*list-included*’ electricity generation activities/services with additional financial support that would not be available to electricity generation from nuclear, thus giving to the ‘*list-included*’ electricity generation

¹ Appellate Body Report, *Argentina – Financial Services (2016)*, para 6.31.

² *Ibid.*, para. 6.32.

³ See Article XVII:3 of the GATS.

⁴ Appellate Body Report, *Argentina – Financial Services (2016)*, para 6.106.

activities/services *'more opportunity to trade'*. In other words, this would mean that the Taxonomy Regulation excluding nuclear from the list of sustainable *'Taxonomy-eligible'* economic activities would be contrary to the national treatment principle under Article XVII:1 of the GATS.

However, it could still not be concluded that the Taxonomy Regulation excluding nuclear from the list of sustainable *'Taxonomy-eligible'* economic activities is found inconsistent with the national treatment principle under Article XVII:1 of the GATS. The EU could in this respect make a recourse to Article XIV(b) of the GATS that states:

*"Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where like conditions prevail, or a disguised restriction on trade in services, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any Member of measures (b) necessary to protect human, animal or plant life or health."*¹

First of all, in order to determine whether the Taxonomy Regulation excluding nuclear from the list of sustainable *'Taxonomy-eligible'* economic activities could be justified under Article XIV of the GATS, the EU would need to determine (1) whether the measure can provisionally be justified under the specific exception of paragraph (b) of Article XIV of the GATS and, if so, (2) whether the application of this measure meets the requirements of the chapeau of Article XIV.

Article XIV(b) of the GATS sets out a two-tier test:

- a) the policy objective of the measure must be protection of human, animal or plant life or health; and
- b) the measure must be necessary to fulfil that policy objective.

Protection of environment is part of the objectives set out in Article XIV(b) of the GATS. However, as the panel in *Brazil – Retreated Tyres (2007)* emphasised, a party invoking such exemption with regard to environmental policy measures

*"... has to establish the existence not just of risks to the environment generally, but specifically of risks to animal or plant life or health"*²

This is to say that not all environmental policy measures would fall within the scope of Article XIV(b) of the GATS.

As for the *'necessity'* requirement, the Appellate Body in *Brazil – Retreated Tyres (2007)* ruled that:

*"In order to determine whether a measure is 'necessary' ... a panel must consider relevant factors, particularly the importance of the interests or values at stake, the extent of the contribution to the achievement of the measure's objective, and its trade restrictiveness."*³

¹ Article XIV(b) of the GATS.

² Panel Report, *Brazil – Retreated Tyres (2007)*, para. 7.46.

³ Appellate Body Report, *Brazil – Retreated Tyres (2007)*, para. 178.

The text of the Taxonomy Regulation says a lot about environment and healthy ecosystems but not specifically about the human, animal or plant life or health. It is true that it demonstrates a climate change as a danger for the planet and nuclear energy just having a potential to negatively affect the environment but it does not explicitly shows a nexus between nuclear energy and human, animal or plant life or health with serious negative consequences of nuclear energy (meeting all the safety and security standards) on human, animal or plant life or health. Therefore, it seems that the Taxonomy Regulation focuses primarily on environmental risks to the planet as a whole which may also have consequences to human, animal or plant life or health.

Based on all this analysis related to the Taxonomy Regulation (without inclusion of nuclear energy in the list of sustainable economic activities), it is not possible at this stage to firmly conclude that such regulation is WTO law consistent or not. If the prerequisites, which are against its WTO law consistency, identified and demonstrated in the analysis were met, then the Taxonomy Regulation excluding nuclear from the list of sustainable '*Taxonomy-eligible*' economic activities would be inconsistent with the WTO law, particularly with the national treatment principle set out in Article XVII of the GATS.

Conclusion

The current situation in the global economy and world trade experiences a very difficult challenge represented by the COVID-19 pandemic, which changes various recent human habits and some of these changes are expected to remain even after the pandemic is left. These changes are indispensably connected with the digital economy transformation and the green energy transition as key elements of a new era called Industry 4.0. However, the COVID-19 crisis comes with many positive opportunities which, if carefully considered and utilised, may help us easily recover from the pandemic and boost the economic growth that would not be recorded if the pandemic did not occur. In addition, there are the lessons learned from previous crises that the world has experienced, at least from the last 2008-09 global financial crisis. These lessons learned will considerably contribute to the fight against pandemic and will ease the recovery therefrom. This paper shows many estimates from 2020 shaping the near future and it is retrospectively demonstrated that these estimates has not meet the reality. It is very difficult to prognose economic development, the more during pandemic. The economic development during pandemic situation is dependent on government decisions and policies as well as on the evolution of pandemic which is not under the man control. Therefore, there is currently significant uncertainty in the world trade and any fresh estimates should be taken with reserves because they may be false at the end of the day. In any case, the paper demonstrates that the world trade is globalised nowadays, based on multilateralism, therefore joint actions and cooperation is necessary to reach the successful recovery from the pandemic. There are concerns that if bad decisions are taken by governments, it may happen that the world trade may step back from multilateralism to protectionism bringing trade obstacles and resulting in the negative economic growth. There is broad evidence that protectionism does not lead to prosperity and Adam Smith's wealth of nations, therefore ended and overcome by multilateralism.

Another vital fact that is demonstrated by this paper is that the world trade is a regulated organism represented by the body of law. This body of law predominantly has a form of the WTO law. Any new initiatives, which are good and innovative in essence, has to respect that

body of law. If it does not do so, it negatively affects the global trade, brings obstacles and restrictiveness, hamper the due course of the world economy and trade, thus acting unlawfully and contrary to the needs of the world economy and trade, to our needs.

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