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## **Analysis and Interpretation of the Principle of Equity and Mutual Benefit in International Economic Law**

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**Abstract.** With the deep development of social economy, the application of international economic law is becoming more and more extensive. As an organic legal system, international economic law contains a number of international laws and treaty provisions. In international economic trade, the role of international organisations is reflected in both fairness and unfairness. As a result of complex political factors, small and weak countries often suffer from unequal treatment in international economic trade. However, the emergence of international economic law, especially the establishment of the principle of fairness and mutual benefit, has brought a ray of hope for the improvement of inequality in international economic trade. The principle of fairness and mutual benefit occupies an important position in international economic law, and contains the two main themes of equality and reasonableness. In the current situation, the study of the principle of fairness and mutual benefit in international economic law is crucial to the maintenance of economic order and the stability of the economic system. The principle of fairness and mutual benefit is the basic principle in all fields of international economic law, and has been widely recognised by the international community. In the whole system of international economic law, the basic principle is the core, and the principle of fairness and mutual benefit is the most basic principle, and it is of great practical significance to adhere to and implement the principle of fairness and mutual benefit.

**Key words:** International economic law, basic principles, equity, mutual benefit, WTO, Charter of Economic Rights and Obligations of States, UNCTAD, UN.

**Халықаралық экономикалық құқықтағы әділеттілік пен өзара тиімділік принципін талдау және түсіндіру**

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**Түйіндеме.** Әлеуметтік экономика терең дамыған сайын Халықаралық экономикалық құқықты қолдану кеңейе түседі. Органикалық құқықтық жүйе ретінде Халықаралық экономикалық құқық бірқатар халықаралық заңдар мен халықаралық шарттардың ережелерін қамтиды. Халықаралық экономикалық саудада халықаралық ұйымдардың рөлі әділеттілікте де, әділетсіздікте де көрінеді. Күрделі саяси факторлардың нәтижесінде шағын және әлсіз елдер халықаралық саудадағы тең емес қатынастардан жиі зардап шегеді. Алайда, Халықаралық экономикалық құқықтың пайда болуы, әсіресе әділеттілік пен өзара тиімділік принципін белгілеу Халықаралық экономикалық қатынастардағы теңсіздіктерді жоюға үміт сәулесін берді. Әділдік пен өзара тиімділік принципі Халықаралық экономикалық құқықта маңызды орын алады және екі негізгі тақырыпты қамтиды - теңдік пен парасаттылық. Қазіргі жағдайда Халықаралық экономикалық құқықтағы әділеттілік пен өзара тиімділік принципін зерттеу экономикалық тәртіп пен экономикалық жүйенің тұрақтылығын сақтау үшін өте маңызды. Әділдік пен өзара тиімділік қағидаты Халықаралық экономикалық құқықтың барлық салаларында негізгі қағидат болып табылады және халықаралық қоғамдастықтың кеңінен танылуына ие болды. Халықаралық экономикалық құқықтың бүкіл жүйесінде негізгі принциптер жүйенің өзегі болып табылады, ал әділеттілік пен өзара тиімділік принципі ең негізгі принцип болып табылады, ал әділеттілік пен өзара тиімділік принципін сақтау және жүзеге асыру үлкен практикалық маңызға ие.

**Түйінді сөздер:** Халықаралық экономикалық құқық, негізгі қағидаттар, әділеттілік, өзара пайда, ДСҰ, мемлекеттердің экономикалық құқықтары мен міндеттерінің Хартиясы, ЮНКТАД, БҰҰ.

### **Анализ и интерпретация принципа справедливости и взаимной выгоды в международном экономическом праве**

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**Аннотация.** По мере глубокого развития социальной экономики применение международного экономического права становится все более широким. Как органическая правовая система, международное экономическое право содержит ряд международных законов и положений международных договоров. В международной экономической торговле роль международных организаций проявляется как в справедливости, так и в несправедливости. В результате сложных политических факторов малые и слабые страны часто

страдают от неравного отношения в международной торговле. Однако появление международного экономического права, особенно установление принципа справедливости и взаимной выгоды, дало луч надежды на устранение неравенства в международных экономических отношениях. Принцип справедливости и взаимной выгоды занимает важное место в международном экономическом праве и содержит две основные темы - равенство и разумность. В нынешней ситуации изучение принципа справедливости и взаимной выгоды в международном экономическом праве имеет решающее значение для поддержания экономического порядка и стабильности экономической системы. Принцип справедливости и взаимной выгоды является основополагающим принципом во всех областях международного экономического права и получил широкое признание международного сообщества. Во всей системе международного экономического права основополагающие принципы являются ядром системы, а принцип справедливости и взаимной выгоды - самым основным принципом, и соблюдение и реализация принципа справедливости и взаимной выгоды имеет большое практическое значение.

**Ключевые слова:** международное экономическое право, основные принципы, справедливость, взаимная выгода, ВТО, Хартия экономических прав и обязанностей государств, ЮНКТАД, ООН.

### **Introduction**

From the jurisprudence point of view to analyse, any law is the pursuit of fairness and justice, the principle of fairness in international law, is the embodiment of the pursuit of international legal provisions of jurisprudence, but with other transaction models and theories are different, the principle of fairness in international economic law, the pursuit of the form of equality, rather than the degree of the substantive meaning of the international economic and trade commercial attributes determined by. In international economic law, the results of its transactions can not be measured by the principle of fairness, because trade has the risk and uncertainty, in addition to the inherent legal system will be part of the main body of the interests of the solidification, so it is difficult to achieve complete equality, which is based on the differences between countries and imbalance where. Reflected in the international economic trade, the rights and obligations of different subjects exist to a large extent unfair phenomenon.

From the perspective of jurisprudence, fairness means that in the process of exchanging rights and obligations, different subjects have equal status in law, whether in substantive law or procedural law, which requires equal opportunities and treatment. In international economic law, the emphasis on the principle of equality, is required between countries in the process of carrying out trade, based on equal status, against trade discrimination and blockade, for each economic subject, to obtain equal trading opportunities and trading treatment, which is an important manifestation of the balance of the international economic system and content. However, in today's international economic and trade system, this balance has not been fully practiced,

unfair and unequal phenomenon prevails, generally exists in the transaction between developed countries and underdeveloped countries, embodied in the specific commercial subjects, is the international strong commercial subjects and weak commercial subjects between the inequality.

Therefore, fairness in international economic law mainly refers to the fact that in international legal relations, different commercial subjects between countries have equal status in terms of transaction status and rule design, and have the right to exercise reasonable control over their own transaction behaviour and to obtain equal rights and consideration for fair transactions; specifically, the principle of fairness embodies the rules of equality and mutual benefit, fairness and reciprocity in commercial transactions.

### **Materials and methods**

In the early stage of international economic exchanges, the economic and trade activities of all countries are often an unequal state, "big fish eat small fish", "black eat black", "bullying" is the main theme of international economic trade in that era. Equality and fairness seemed to be a joke, and the law of the jungle, where the weak were preyed upon by the strong, ran through the entire trade activities (Hu Qichen, 2015). In the era of universal colonisation by the West, the colonies were subordinate to the sovereign state and did not have any economic sovereignty of their own, not to mention achieving the so-called fairness and justice, and there was a very serious problem of unfairness in the trade exchanges between the colonies and the sovereign state (Sui Koyi, 2016). What is even more unacceptable is that for a long time this pattern was regarded by the dominant sovereign state as compliant behaviour and would be defined by means of international treaties. In the history of capitalist development over the past few centuries, there have been many unequal international economic relations that have been arranged with many unequal rules. As a socialist country, China put forward ten principles of relations at the Bandung Conference in 1955, and one of the important points was the principle of equality and mutual benefit, which was widely recognised by the international community as soon as it was put forward, and gradually became an important part of international economic law and a basic principle, and the principle of fairness and mutual benefit was gradually developed on the basis of the principle of equality and mutual benefit (Wei Lingwei, 2016).

After the end of the Second World War, the colonies have set off a wave of independence and autonomy, and one by one, the former colonies have become independent countries and started to apply the basic principles of international economic law, relying on international law to enjoy equal sovereignty and undertake the same obligations, and co-existing with the old big countries under the global economic development system. For reasons of economic strength and history, the initiative and the right to speak in international economic activities are still in the hands of the traditional developed countries, and although formally speaking the sovereignty of all countries is equal and mutually beneficial, in essence there is a

huge difference in the status of countries in the international economic chain (Herdegen, 2016). Countries with an advantageous economic status tend to use their advantages to suppress and exploit the disadvantaged parties in order to obtain more benefits for themselves, increasing the advantages of the advantaged parties and the disadvantages of the disadvantaged parties, resulting in very serious inequality. This inequality has affected the confidence of the disadvantaged parties in participating in international economic activities, so the principle of fairness and mutual benefit should be implemented in international economic activities to promote substantive equality as far as possible. At the level of international economic law, the disadvantaged parties can further emphasise economic sovereignty and the principle of fairness and mutual benefit in international economic rules, and many disadvantaged parties can join hands with the dominant parties to fight against the inequality and infringement of the subject's economic sovereignty in the traditional order, so as to establish a sound new international economic order. We from the reality of the interaction situation, the important subject of international economic law is the sovereign state, then this is very unfavourable to the development of developing countries, because of its economic, political, cultural and other reasons, in the activities will always be in a low position. Therefore, sovereign states should adhere to the principle of fairness and mutual benefit in the process of economic exchanges, and ensure the economic rights and interests of each sovereign state to the maximum extent possible. In the process of fulfilling the principle, they should not only adjust political relations, but should also give more favourable conditions to developing countries from the perspective of developing countries, which can truly achieve equality. Then, the so-called mutual benefit, short for mutual gain, means that both sides should be benefited in economic activities. Mutual benefit can only be truly achieved when the independence and equality of economic sovereignty are guaranteed among different countries. Therefore, only by combining the principles of equity and mutual benefit can the practice of international economic interaction be made more long-term.

As a basic rule of law, the principle of fairness of international economic law, has a profound legal basis, reflecting the state of real life. The creation of the principle of fairness, is the establishment of international economic and trade order in the process of countries, jointly transfer part of the rights, so as to constitute a stable trading system and trading order, and thus achieve the stability and balance of the transaction. The goal of the principle of fairness is to maximise the interests of all trading subjects through the establishment of a fair trading system, in which the connotation of fairness does not mean that different trading subjects receive the same economic benefits, but rather that each economic subject has the opportunity to obtain fair trading opportunities and fair treatment. From the basic concepts of human nature and social order, this principle requires, and is also the international version of the rules of everyday civil transactions, is the application of universal transaction standards in the field of international economic trade embodiment (Qiang Qiang, 2014).



Today, we can clearly trace the consolidation and development of the principle of justice and mutual benefit in international legal acts of various levels and status. Thus, already in the UN Charter, Article 55 establishes the obligation of states to base their economic cooperation with each other on the basis of another principle of international law – equality and self-determination of peoples, and to contribute to improving their standard of living. Although, directly, it does not talk about justice and mutual benefit, however, this is how this article can be interpreted. In its resolution 15 (II), UNCTAD recommended that the countries of the "East and West" base their economic cooperation on the basis of mutual benefit. The use of the formal legal method in this context when writing the article made it possible to define the definition of the principle and its content.

In 1974, one of the most important documents in international economic law was adopted – the Charter of Economic Rights and Obligations of States. Chapter 1 of this document specifies the basic principles on which international economic relations should be based, among which we can find "mutual and just benefit" and "the elimination of injustices resulting from the use of force that deprive any nation of the natural means necessary for its normal development."

Using the comparative legal research method in the work, it was possible to compare various international legal acts that contain certain definitions of the principle of justice and mutual benefit.

Subsequently, in 1975, the Helsinki Final Act of the Conference on Security and Cooperation in Europe established the need for cooperation, taking into account differences in levels of economic development on the basis of equality and reciprocity.

Do not forget about more industry-specific acts as well. So, even within the framework of the GATT, during the rounds of negotiations between Kennedy, Tokyo and Uruguay, the states, based on the principle of fairness and reciprocity, developed a narrower principle aimed at regulating international trade – the principle of mutual concessions and mutual benefit. Subsequently, this principle was consolidated in the WTO package.

From the viewpoint of legal basis, the principle of fairness in international economic law has a clear legal source, whether it is the World Trade Organisation Convention or international commercial customs, etc., all of which make clear requirements for fairness and equality and mutual benefit in relation to transactions, which, from the point of view of legal source, is the legal basis for the existence of the principle of fairness in international economic law.

## **Discussion**

As a basic guideline in the process of international economic trade, the principle of fairness in international economic law has a fundamental position in the entire legal system, has been generally accepted by the main body of the international transactions, although in the understanding of the connotation and extension of the

principle of trade, there are still different opinions and debates, but on the principle of fairness of the basic elements of the project, has basically reached a consensus.

The principle of fairness manifests the basic spirit of international economic trade. In the Spirit of the Law, the role of the law and legislative value orientation, has a more thorough and profound discussion. In international economic activities, fairness is a basic requirement, but also can achieve the basic protection of capital and trade flows, is the international economic order is stable and orderly basis and necessary elements. International economic law through the fairness of the behaviour of different subjects to measure, through the legislative theory and interpretation of the two ways, the behaviour of different subjects to evaluate, and then give evaluation and guidance, so as to achieve the role of maintaining the stability of the system (Tanjina Sharmin, 2020).

In international economic activities, international economic law and the principle of fairness embedded in international economic law, has the characteristic of applicability, just as the famous legal saying "the law must be obeyed, otherwise it is useless" explained, the principle of fairness in international economic law, in the process of application, has a strong value of applicability, is a kind of universal values and value pursuit, for the protection of international economic order, and is a kind of universal values and value pursuit, for the protection of international economic order. It is a universal value and the pursuit of value, and plays a vital role in safeguarding the international economic order. An important characteristic of law is mandatory, international economic law as an important part of the global legal system, consisting of a number of different branches of law, which implies the principle of fairness, but also inevitably require mandatory, if there is no legal mandatory, from the point of view of jurisprudence, such a principle of law does not exist in the practical significance and value.

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### **Results and conclusions**

In the process of international economic trade, the practice of the principle of fairness, there are a variety of different transaction rules and cognitive methods, one of the concept is the generalised system of preferences. In international trade, in order to implement the principle of fairness, to protect the equal status of the main subjects of the transaction, in the Charter of Economic Rights and Duties of States, the principle of fairness is given to the text of the implementation of the principle of fairness, through the balance of trade agreements and tariff regimes, to achieve the fairness of the principle of the process of international economic trade. In terms of the form in which the principle of equity is embodied, it is a kind of balance in trade, pursuing not only procedural equality in the formal sense, but also balance in substance, and a policy of mutual benefit in trade, in which developed countries are obliged to favour developing countries in the course of transactions, so as to achieve the balanced development of the different economic entities (Herdegen, 2016). In international economic law, arbitration or adjudication organisations, for economic and trade disputes, have greater discretion, so in the application of international economic law, the principle of fairness is an important basis for adjudication of the adjudicator, in the international commercial and trade practice, there is a lot of space for application.

According to the provisions of the General Agreement on Tariffs and Trade (GATT), there is a provision on reciprocity and mutual benefit, which contains the jurisprudence of the principle of equity. According to the provisions of the General Agreement on Tariffs and Trade, under the WTO trading system, it is necessary to realise the different interests of different trading subjects and maintain the stability and legitimacy of the trading system. With the deepening of economic globalisation, modern international trade transactions are more and more frequent, and conflicts and disputes are more and more frequent, in such a background, it is of great value to strengthen the research and cognition of the principle of fairness in international economic law. In international exchanges, the fair and balanced transaction embodiment, for the development of the world economy and trade, have a vital role, need to be further strengthened, and to give systematic protection.

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