AN OVERVIEW

1.1 EVOLUTION OF WORLD TRADE ORGANIZATION (WTO) 04 - 10
1.2 STATEMENT OF PROBLEMS 10 - 11
1.3 OBJECTIVE AND SCOPE OF STUDY 11 - 12
1.4 HYPOTHESIS 12 - 13
1.5 RESEARCH METHODOLOGY 13 - 14
1.6 REVIEW OF LITERATURE 14 - 14
1.7 PRESENTATION OF STUDY 14 - 16
Globalization is a general deregulation of government control over the capital (both in industrial and financial) functioning and liberalization of opportunities that are offered to the industrialists. It is a process that involves growing interdependence of countries world wide. The Pundits of globalization claim that controls and the license rules were responsible for the slow growth of the economy and today the biggest need is that the markets should grow and flourish to cater the needs of the people at large. After the downfall of the Soviet Union and the East European Communism, the economic and the political literature emanating from both industrial and developing worlds has more or less often adopted the term globalization.

Globalization is not a new phenomenon; it was practiced in Ancient, Medieval and Modern Periods. Though some of the writers in Ancient period supported the Laissez-Faire but some of them were in favor of free trade. In the first several centuries A.D, philosophers and theologians discussed about the Doctrine of Universal Economy and the main propagator of this theory was Plutarch. He took the view that God created the sea, geographic separation and diversity in endowments in order to promote interactions through trade between the various peoples of the earth. Adam Smith¹ in his book clearly mentioned that what is prudence in the conduct of every private family can scarcely be folly in that of a great kingdom. He further stated that if a foreign company can supply us with a commodity cheaper than we can make, better buy it of them, this theory of Adam Smith was called as Absolute Advantage

¹ Adam S.; Wealth of Nations (1776).
Theory, which was supported by David Ricardo in his Theory of Comparative Advantage in which he explained by means of simple arithmetic examples, as England could produce a given quantity of cloth with the labour of 100 men and could also produce given quantity of wine with the labour of 120 men, Portugal in turn could produce the same quantity of cloths with the labour of 90 men and same quantity of wine with the labour of 80 men. Thus Portugal enjoyed an absolute advantage over England with respect to the production of both cloth and wine. Heckscher and Ohlin the two Swedish economists reformulated Adam Smith's theory in 1920, and gave Factor proportion hypothesis which states that countries will tend to enjoy comparative advantages in producing goods that are used abundantly and each country will be exporting abundant goods in exchange for the imported goods.

The present phase of globalization started in the beginning of the 1960's. It started when the Latin American countries such as Brazil, Argentina, Chile and Mexico became the first to accept the Structural Adjustment Programme (SAP) of the International Monetary Fund (IMF) and borrowed petrodollars from US commercial banks at the commercial rates. In the year 1960 Raymond Vermon of the Harvard Business School formulated the product cycle theory of trade in manufactured goods.

In 1980's and early 1990's Asian, African, East European and Central Asian Countries of erstwhile Soviet Union recognized globalization. The process of globalization became fully operative with the implementation of full General

3. This theory explains the international specialization in manufacturing. The first step according to this theory focused initially on servicing a small, domestic and custom oriented market. Second stage in the product cycle sees production expanded to cater mass domestic markets. Third stage leads to products exported to other countries and perhaps parent companies and its subsidiaries in other countries to undertake manufacture there.

Thus globalization in the present phase is largely for unrestricted operations of Multinational Companies (MNC's) with uncontrolled international capital movement, commodity flows, financial movements, globalized communication for the unrestricted propagation of western culture and ideas. This phase of globalization can be characterized as the age of capitalists.

1.1 EVOLUTION OF WORLD TRADE ORGANIZATION (WTO):

After the Second World War, Trade Leaders had come to realize the significant contribution that trade held. The provision of Atlantic Charter was noteworthy.⁴ Points 4 and 5 of the Atlantic Charter read as follows:

**Point 4.** The United States and the United Kingdom government will endeavour, with due respect for their existing obligations, to further the enjoyment by all states, great or small,Victor or Vanquished, of access, on equal terms to the trade and to the raw materials of the world which are needed for their economic prosperity.

**Point 5.** They desire to bring about the fullest collaboration between all nations in the economic field with the object of securing for all, improved labour standards, economic advancement and social security.

It is therefore, submitted that the Atlantic Charter talks about the rules which provided equal protection to all the nations in practicing trade, collecting raw materials, improving labour standards and social securities. These are some of the important requirements for trade and economic prosperity.

⁴. Atlantic Charter was issued on 14th August 1941, by the President of United States and the Prime Minister of United Kingdom.
The Charter therefore, supported the concept of globalization and the need of trade law which would be binding on all the nations of the world equally.

In February 1946 meeting of the United Nations Economic and Social Council (ECOSOC) was held and a convention to establish a World Organization whereby signatory countries in an effort to establish ground rules for trade amongst themselves was considered. This effort was embodied in the formation of International Trade Organization (ITO).

After this resolution the Havana Conference took place from November 1947 to March 1948, hence the Charter for ITO also known as Havana Charter was drafted which had established a governing body consisting of representatives from all member countries. However, ITO did not become a reality, and after meeting stiff resistance and delay that foreshadowed defeat. In December 1950, its President withdrew the Charter from further consideration and this sounded the death knell for the ITO.5

Fortunately, at the earlier meetings of the Havana Conference at Geneva from April to October 1947, the General Agreement on Tariffs and Trade (GATT) had also been drafted concurrently with the ITO Charter. This code aimed to restrict certain government practices that was operated to circumvent the tariff commitments. As the code of conduct was itself a part of anticipated ITO Charter, it was never formally implemented and on 30th October 1946 GATT was brought into force by means of Provisional Protocol and was effective from 1st January 1948.6

Reasons why GATT succeeded are as follows:

6. id pp. 443-44.
(A) GATT dealt mainly with tariffs and other matters related to them while International Trade Organization (ITO) dealt with employment, commodity, agreements, restrictive business practices, etc. which were matters of expediency rather than of merit.

(B) Participation in GATT did not require any special legislation for most of the contracting parties. They could participate in GATT as in any other commercial agreement just by the executive authority, while participation in International Trade Organization required legislative approval.

(C) Commitments in GATT were less binding than those in the International Trade Organization. A contracting party could withdraw itself from the agreement by giving sixty days notice while the charter required six months notice for withdrawal from the International Trade Organization.7

GATT was successful because it had simple procedure with least interference in the member countries economic policies. Therefore, it may be inferred that most of the nations were of the view that globalization of international trade must take place but not at the risk of the sovereignty of nations.

After the establishment of GATT there has been a series of eight periods of negotiations, called multilateral trade negotiations or rounds up until year 1994, and in this 47 years, the basic text of the (GATT) remained much as it was in (1947-48), there were only additions in the form of voluntary memberships, agreements and continued efforts to reduce Tariffs.

In the first five rounds of GATT held at Geneva (1947), Annecy (1949), Torquay (1951), Geneva (1956) and Dillon

(1960-61), the discussions were concentrated on tariff as it was the protection for the countries to check and balance its imports. Subsequently at Kennedy round (1964-67), antidumping was also discussed on which no final decision was taken. From the period (1973-79) Tokyo round took place where substitutes for tariff was thought about and various opinions were invited from different participating countries about the non-tariff measures and hence here we could see that GATT was leading the nations to liberalize their policies. The longest and the most important GATT round was known as Uruguay round held from (1986-94). In this round the policies of Tokyo round were implemented and along with tariff and non-tariff measures several other issues such as services, intellectual property rights, dispute settlement, textile, clothing and agriculture was taken up and as we suspected that GATT was moving away from its track it was suggested by several nations that GATT must be replaced by world trade organization. The major issues taken up in the eight rounds are shown in the table below:

Table. I: GATT Trade Rounds

<table>
<thead>
<tr>
<th>Year</th>
<th>Rounds</th>
<th>Subject covered</th>
<th>Participating countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>1947</td>
<td>Geneva</td>
<td>Tariffs</td>
<td>23</td>
</tr>
<tr>
<td>1949</td>
<td>Annecy</td>
<td>Tariffs</td>
<td>13</td>
</tr>
<tr>
<td>1951</td>
<td>Torquay</td>
<td>Tariffs</td>
<td>38</td>
</tr>
<tr>
<td>1956</td>
<td>Geneva</td>
<td>Tariffs</td>
<td>26</td>
</tr>
<tr>
<td>1960-61</td>
<td>Dillon Round</td>
<td>Tariffs</td>
<td>26</td>
</tr>
<tr>
<td>1964-67</td>
<td>Kennedy Round</td>
<td>Tariffs &amp; Antidumping measures</td>
<td>62</td>
</tr>
<tr>
<td>1973-79</td>
<td>Tokyo Round</td>
<td>Tariffs, non-tariff measures and framework agreement</td>
<td>102</td>
</tr>
<tr>
<td>1986-94</td>
<td>Uruguay Round</td>
<td>Tariffs, non-tariff measures, services, IPRs, Dispute settlement, textiles, clothing, agriculture, establishment of WTO</td>
<td>123</td>
</tr>
</tbody>
</table>
As a result of the Uruguay Round of trade negotiations the World Trade Organization (WTO) was born on 1st January 1995. It is the highest body for setting rules for international Trade. Apart from setting rules for International Trade the WTO also oversees provides Implementation of its rules by providing forum to the members under dispute settlement mechanism. Further the WTO conducts trade Policy review of Member states under the Trade Policy Review mechanism. The Primary objective of WTO is to bring uniformity, certainty and transparency in World Trade System by restraining Members from invoking arbitrary and Unilateral Trade Policy Measures. The preamble of the WTO Agreement States its objective as:

The WTO agreement was negotiated and signed by the main trading nations. These documents provide the legal grounds for International Commerce. In other words, the policies of the members had to be WTO Compatible. It is an Inter-Governmental Organization, and focuses on how producers of goods and services, exporters and importers conduct their businesses.

There are nine basic principles of the WTO trading systems:

(A) **Transparency**

WTO aims at achieving transparency in International trade relation by obligating members to notify changes in their trade regulations, technical and Phyto-Sanitary Standards well in advance.\(^ \text{10} \)

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9. Raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demands and expanding the production of trade in goods and services, while allowing for optimal use of the world resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in the manners consistent with their respective needs and concerns at different levels of economic development.
10. A (WTO) member is however not under an obligation to disclose confidential Information which can impede law enforcement or other wise be contrary to the Public Interest.
(B) Most Favoured Nation (MFN) Treatment

WTO member countries must not discriminate between its trading Partners. Every time a country lowers its trade barriers or open its market; it has to do so for its entire WTO trading Partner Members.11

(C) National Treatment: Non Discrimination within a Country

Imported and locally produced goods should be treated equally, at least after the foreign goods have entered the domestic market.

(D) Free Trade Principle: Optimal Utilization of World Resources

Lowering trade barriers is one of the most obvious means of encouraging trade. The barriers concerned include mainly custom duties or tariffs and measures such as quantitative restrictions like import bans or quotas that restrict quantities selectively.

(E) Dismantling Trade Barriers: Removal of Quantitative Restrictions (QR's), Tariffs Bindings

The WTO's main aim is to dismantle trade barriers by removing the Quantitative Restrictions (QR's) and tariff bindings.

(F) Rule Based Trading System: Certainty and Predictability

The WTO stands for rule based trading systems; it sets and enforces rules necessary for conducting world trade fairly.

(G) Special and Differential Treatment for Developing and Least Developed countries

The WTO recognizes the need for positive policy efforts to help developing countries especially least developed countries reap the full benefits of trade liberalization.

11. Some exception to (MFN) Principle are however allowed, for example, countries within region can enter into Trade Agreement that may not necessary apply to goods from outside the group.
(H) The Competition Principle

The WTO is a system of rules dedicated to open fair competition. The tariff reduction and elimination exercises go hand in hand with measures to reduce or eliminate subsidies.\textsuperscript{12}

(I) Environment Protection: Improving Quality of Life:

Preamble of the WTO agreement includes direct references to the objective of sustainable development and the need to protect and preserve the environment. For example, the agreements on technical barriers to trade and sanitary and Phyto-Sanitary Measures explicitly taken into account the use by governments of measures to protect human, animal and plant life, health and environment.

1.2 Statement of Problems

One of the main function of WTO is to administer and facilitate the implementation of the objectives aimed at Uruguay round and Seattle round, though initially the European Economic Community was not enthusiastic as it was apprehensive that the negotiations would focus on the liberalization in agriculture, it finally gave its support to the proposal, the matter was intensely followed up by the major industrialized countries. The developing countries did not support the launch of a new round of negotiations mainly for fear on three counts:

A. They would be the main targets for extracting concessions in any new rounds.

B. New subjects of interest to developed countries in which the developing countries themselves had no particular interest would be taken up for negotiations.

\textsuperscript{12} In the Singapore ministerial conference in 1996 a working group on trade and competition policy was set up. The working group has mandate to study issues raised by the member states.
The subject which had been of interest to developing countries for a long time would be ignored.

The main problems which existed were concerned with - Agricultural Products, International Labour Standards, Trade Subsidies, Environment, Liberalization of Trade, Market Access, Information Technology, Trade Related Intellectual Property Rights, Services and Textiles.

1.3 OBJECTIVE AND SCOPE OF STUDY:

As the linkage between trade, environment and development remains very significant with an ever increasing economic globalization and interdependence, these linkages assume greater importance than in the past. These issues deserve considerable focus in the international trade policy regimes. The costs of neglecting these integral dependencies is to engage in misleading trading operations which can precipitate in potentially irreversible environment and hence economic impediments to sustainability of trade. As in international trade ethical issues affects economics differently, countries which do not enforce labour standards can produce and export commodities cheaply vis-à-vis those that enforce labour standards. These issues shall be examined thoroughly as it has become a bone of contention between the developed and developing countries and in frequent trade disputes.

Firstly we will take up the important concessions and commitments of developed countries which may be of benefit to them including other developing countries. For instance, in agriculture, developed countries have made commitments to reduce their import restrictions, domestic support and export subsidies.13 Further developments will be examined.

Developing countries have agreed to include services in the framework of WTO Agreements. The degree of concessions made by the developing countries including the services in the WTO system can be gauged from the stiff resistance they put up against including this subject in the agenda of Uruguay Round. Developing countries also agreed to include the intellectual property rights, in the framework of WTO agreements. In both of these areas the demand for the negotiation was from the developed countries. By agreeing to include these two subjects in the negotiations, the developing countries opened the door for similar concessions in future which will be elaborated.

There are specific provisions for free movement of capital associated with the commitments in the agreement on services, and developing countries would need to be equally flexible on issues such as labour standards and environment which played such an important part in wrecking the Seattle conference. It is clear that exports from the developing countries which uses child labour and polluted the environment more than permissible level simply will not attract good markets. The implication of this is that exporters of such products, including India will have to set in motion policies that will not only put an end to such stigma on their exports and make the product more acceptable in markets with high potentials and reduces the possibility of trade conferences like that of Seattle in a fiasco. All comparison and concessions will be carefully assessed.

1.4 HYPOTHESIS

The following points form part of the hypothesis of this work –

1. The developed countries are using WTO as an instrument to support the developing and poor countries for their own vested economic and trade interest. There is an urgent need
to implement the Doha Round Agreement on International Trade Regime in general and those related to intellectual Property Rights in Particular. Although efforts are being made to find out the ways for the protection of developing countries in the regime of International Trade and WTO but success is too far.

2. **Heavy Restrictions on Market Access** remains in the International Trade Regime and domestic Markets in various developing countries continue to be mostly isolated from world price changes.

3. There are apprehensions that Environmental measures at the WTO may be abused by the developed countries for the protectionist purposes.

4. There is a clear conflict of interests between Developed Nations and Developing Nations in relation to cross border trade, Manufacturing Sector, investment measures and other aspects of Service Sector.

5. The WTO provisions endeavouring linkages between Trade and Labour Standards can be misused by developed countries to pressurize Developing Nations.

6. A number of firms, MNC's (Multi National Companies) or TNC's (Trans National Companies) of developed countries have been involved in Piracy of Biogenetic Resources of developing countries.

### 1.5 RESEARCH METHODOLOGY

Primarily my research is based on Doctrinal Method and will be carried out on the basis of legal proposition by way of analyzing the existing statutory provisions and reasoning powers. The research is based on the source and materials collected from Books, Journals, Articles, Declarations of various rounds, Websites, News Paper
The research study would employ various techniques keeping in view the developments in world trade organization (WTO), its effect on international trade environment and developments. The changes which are required to protect the interest of Indian Traders and consumers will be explored. It will involve the analysis of various cases relating to international trade and arranging, ordering and systemizing legal propositions.

1.6 REVIEW OF LITERATURE

In the era of globalization the concept of free trade is given prominence, and WTO is the body under which this concept is given a final shape. The countries who are members of WTO are bound by its rules and India is one of them. There have been some conflicting issues which have been discussed under various Rounds and in this regard opinions have been given by various Economists, Writers and Representatives. So innumerable Books and Articles have been written on these issues, but due to changing patterns of the society and human behaviour with the development of information lots of these issues have been discussed in News Papers, Web Pages, Magazines, Seminar paper reports, Journals etc.\textsuperscript{14}

1.7. PRESENTATION OF STUDY

The study contains eight chapters.

In chapter first we have discussed an overview of the development of international trade in which various theories of writers and economists such as Plutarch, Adam Smith, Ricardo, Heckscher, Ohlin and Reymond Vermon have been discussed in brief which supported the concept of globalization and free trade. Subsequently we had briefed up

\textsuperscript{14} For exhaustive list see bibliography.
the International Trade Organization (ITO) its failure and the formation of GATT and the issues taken up at its major rounds which led to the formation of the World Trade Organization (WTO). Along with the basic principles of the WTO trading systems, areas in which the problems exist, objective and scope of study, hypothesis, research methodology, Review of Literature has also been highlighted.

In chapter second we have discussed about major Rounds which took place after the formation of WTO. Apart from discussing some common issues taken up at different rounds, we have also specified issues taken up at different round separately. The main feature of this chapter is that it also elaborates the stands of different countries in regards to different issues.

The importance of business information in the promotion of trade and investment has been discussed in chapter third. In this regard firstly legal position of Trade Related Investment Measures (TRIMS) under GATT/WTO regime has been scrutinized, followed by the policies and role that capital movement plays in international trade. And finally we have looked upon different modes in which the commercial information is helpful in promotion of trade. This lays down the importance of information in International Business.

In chapter fourth the impact of environment on international trade has been analyzed. In this regard firstly we took up some important issues which specify the impact of environment on international trade in the WTO regime. Further we have seen up the environmental standards, process and production methods, revising the WTO articles for environmental Protection and finally discussed about the transfer of environmentally sound technologies. This chapter specifies that international trade must be sustainable and
development must not take place at the cost of people's health.

In Chapter fifth case study presenting the situations of the dispute between developed and developing countries with special reference regarding to Indian positions has been taken into account.

The impact of WTO on the developing countries has been taken up in chapter sixth. In this regard the developing countries views on different issues and also the conflicts which is present between the developed and developing countries on various issues is brought-forth this projects the hypothesis of this thesis which highlights the ill effects the WTO has on the developing countries and the methods in which they must protect them selves.

Subsequently we have taken into account about the WTO's impact on Indian markets in seventh chapter. Firstly we have analyzed the positions of local firms against the MNC's, and then scrutinized the Indian positions in regards to WTO/GATT on various issues. Hence taken up the impact of WTO on Indian economy which is based on composite study.

Lastly chapter eighth gives a detail list of suggestions in regard to the protection measures which developing countries especially India must take on various issues of WTO. Therefore, these suggestions could be helpful in future negotiations. Finally the work ends up with conclusion.