CHAPTER – III

WTO: OBJECTIVES AND AGREEMENTS
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This chapter deals with the genesis and working of WTO, which came into existence in January, 1995 as a successor organization to the GATT for the promotion of global trade through a free and negotiation based on transparent multi-lateral purposeful system aiming at the elimination of all tariff barriers and quantitative restrictions. This chapter traces the origin and growth of the WTO and the reasons behind its emergence and the important landmarks in the process of its functioning. The activities of WTO and how it carries out these activities are also discussed in this chapter. Further, the various organs of the WTO the different agreements initiated by it and how they are executed are analysed in this chapter.

The World Trade Organization came into existence as an Organization to regulate world trade, and ensure production of trade and related property rights. The Uruguay Round of the GATT held in 1994 has gone down in history by establishing the World Trade Organization at Geneva in 1995. The eighth round of Multi-lateral Trade Negotiations of the GATT participants, commonly referred to as the Uruguay Round was launched in Uruguay in September, 1986, and after eight years of negotiations it got concluded on...
the 15th December, 1993, at Geneva. The Treaty of the Uruguay became effective in April, 1995.¹

The World Trade Organization has been established in January, 1995 for the implementation of the various provisions of the Uruguay Round Agreement concluded in 1990. In 1991, Arthur Dunkel, the Director-General of GATT and the Official Chairman of the Trade Negotiations Committee prepared a set of proposals (known as the Dunkel Draft or Dunkel Text) for the consideration of the participating countries. The Dunkel Text covered seven areas for negotiations. They are: (i) Market Access; (ii) Agriculture; (iii) Textiles and Clothing; (iv) GATT Rules; (v) Trade Related Intellectual Property Rights; (vi) Trade in Services; and (vii) Institutional matters.²

The Dunkel Draft, though aimed at narrowing the differences between the participating countries on the extent of liberalization of global trade, became a controversial issue. In the final stage of negotiations, however, the Dunkel Draft was altered and amended, especially in the areas of textiles, agriculture and TRIPs, yet there remained a deep imbalance in the exchange of concessions among the participating nations.³

THE GATT

The great depression of the 1930s had forced the Governments of several countries to initiate various kinds of protective trade barriers, including high tariff protection, imposing quota restrictions on imports,
exchange controls and the like. The deliberations of the Bretton Woods Conference, held in July 1941 resulted in an agreement, which aimed at increased international co-operation in money, finance and trade. In accordance with this Agreement, three separate institutions were established, namely: (i) IMF, (ii) IBRD, and (iii) GATT.4

In November 1945, the U.S. Department of Commerce published its proposals for expansion of World Trade and Employment. These proposals set out certain general principles of a multi-lateral trading code, together with suggestions for setting up of an International Trade Organisation (ITO). The proposals for setting up of the ITO had met with failure, but the tariff concessions resulting from the tariff negotiating conference were embodied in a multi-lateral contract called the General Agreement on Tariffs and Trade (GATT). The Contract was signed on October 20, 1947 at Geneva and came into effect from January 1, 1948. One of its most important aims was to bring about a substantial reduction in the U.S. tariffs which had risen to the highest level in the 1930s. Consequently, the GATT became an instrument that achieved the recovery of the economies of Western Europe.5 The GATT, which had originally been intended as a purely temporary arrangement, had become a permanent international body and existed till 31st December, 1995.
FUNDAMENTAL PRINCIPLES OF GATT

The GATT was collectively administered by the contracting parties (countries). The Representatives of the member countries used to meet from time to time to discuss the matters of common interest and to give effect to the provisions of the agreement.

The Text of the GATT Agreement contained four fundamental principles which are as follows:

(i) Trade should be carried on the non-discriminatory basis.

(ii) Domestic industry should be protected by means of customs tariffs and not through other commercial measures.

(iii) The aims of consultations should be to avoid damage to members interests.

(iv) GATT serves as a framework within which negotiations could be held to reduce tariffs and other trade barriers.

OBJECTIVES OF THE GATT

The objectives of the GATT based on the above fundamental principles were contained in the Code of International Trade Conduct. They are:

(1) To follow the unconditional most favoured nation (MFN) principle.
(2) To carry on trade on the principle of non-discrimination, reciprocity and transparency.

(3) To grant protection to domestic industry through tariffs only.

(4) To liberalise tariff and non-tariff measures through multilateral negotiations.

To achieve these objectives the Agreement provided for: (a) multilateral trade negotiations; (b) consultation and settlement of disputes; and (c) waivers to be granted in exceptional cases. The ultimate aim of establishing such a liberal world trading system was to raise the living standards, ensure full employment through steadily growing effective and real income, develop fully the resources of the world, and expand the production and exchange of goods on a global level.

GATT ROUNDS (CONFERENCES) OF GLOBAL TRADE NEGOTIATIONS

Since its formation in 1947, eight rounds (Conferences) of global trade negotiations were held under the auspices of the GATT.

1. THE FIRST ROUND

The First Round was held at Geneva (Switzerland) in 1947. The 23 Countries that founded the GATT exchanged tariff cuts for 45,000 products worth $10 billion of trade on an annual basis.
2. **THE SECOND ROUND**

The Second Round was held at Annecy (France) in 1949. Another 10 countries joined the Agreement and customs duties were reduced for another 5,000 items of goods by the member countries.

3. **THE THIRD ROUND**

The Third Round was held at Torqay (Britain) in 1950-51. The 38 countries involved in the Agreement affected 8,700 tariff reductions.

4. **THE FOURTH ROUND**

The Fourth Round was held at Geneva (Switzerland) in 1955-56. The 26 countries which participated in it decided to further cut the duties for goods worth of $2.5 billion.

5. **THE FIFTH ROUND**

The Fifth Round, also known as the Dillon Round, was held at Geneva (Switzerland) in 1960-62. The countries that participated in this Conference negotiated the new common external tariff of the European Community, set up in 1958, and customs duties for 4,000 items worth 5 billion dollars.

6. **THE SIXTH ROUND**

The Sixth Round; also known as the Kennedy Round was held at Geneva in 1964-65. More than 50 countries accounting for 75 per cent of
GATT members, cut tariffs for industrial goods worth $10 billion. They also signed agreements on grains and products and evolved a code on the anti-dumping actions.

7. **THE SEVENTH ROUND**

The Seventh Round of Multi-lateral Trade Negotiations (MTN) was launched at Tokyo in September 1973 under the auspices of GATT. Its objectives were laid down in the Tokyo Declaration which evolved a far reaching programme for negotiations in the following six areas: Tariff reduction; reduction or elimination of non-tariff barriers; coordinated reduction of all trade barriers in selected sectors; discussion on the multi-lateral safeguard system; trade liberalization in the agricultural sector taking into account the special characteristics and problems in this sector, and special treatment of topical products. The Tokyo Declaration also emphasized that the Multi-Nationals must take into account the special interests and problems of the developing countries.

At the end of the Tokyo Round on 12th April, 1979, a number of Agreements on specific non-tariff and on agricultural product were reached which came into force from 1 January, 1980.

8. **THE EIGHTH ROUND**

The Eighth Round of GATT negotiations, which began in Uruguay in September 1986, were concluded on December 15, 1993. The Delegates from
117 countries approved by consensus a World Trade Treaty aimed at opening up of International Markets and spurring global economic growth into the 21st Century.

As the talks among the member countries broke down in December 1990, the Trade Negotiations Committee of the GATT decided to restart the negotiations in February 1991. Further, the original 15 areas were retained and seven new areas were also added in order to focus the discussions on vital issues. These were: (i) Agriculture; (ii) Textile and Clothing; (iii) GATS; (iv) Rule-Making; (v) TRIMs and TRIPs; (vi) Dispute Settlements; and (vii) Market Access.

After the Uruguay Round of Multi-lateral Trade Negotiations was over on 15-12-1993, the Final Act was signed by 125 countries on April 15th 1994 at Marrakesh. India was also a signatory of this Act. The Agreement was popularly known as the Dunkel Agreement (or) Dunkel Award.

The Final Act ran into more than 400 pages. Like all the legal documents it is complex. It embodies the cream of the seven years of Negotiations made in the Uruguay Round. It had started in Punte del Este in 1986. It was the outcome of 2631 days of Negotiations; 117 participating Nations, thousands of issues, debates and consultations across the world. The purpose was to harmonize the relations for the promotion of International Trade in goods and services. The new GATT Agreement of 1994 aims to end
bilateralism and replace it by a set of uniform codes of multi-lateral global trade in goods and services.9

On account of its defects and limitations, the GATT was subjected to severe criticism from different quarters. The important criticism against the GATT can be presented as follows. There had been large-scale evasion of GATT rules by the member countries over the years which had made a mockery of the GATT. From the beginning of the GATT, agriculture was treated as a special case where the GATT rules were hardly applied. Almost every developed country followed such Agricultural Trade Policies, which were inconsistent with the GATT rules. It was only at the Kennedy Round and Tokyo Round Negotiations that a few Agreements were signed relating to agricultural and dairy products. But the trade liberalization for agricultural products had been much less than for the manufactured items. The producers of agricultural products were forced to follow domestic support policies and the surplus production could be exported only with the help of heavy subsidies. For example, the European Countries exported subsidized wheat, while the US had placed import restrictions on the dairy products.

No doubt, the developed countries had agreed to remove the majority of tariff barriers on various items. But they were reluctant to abolish the remaining barriers. In fact, they had introduced new trade restrictions under the garb of "Voluntary Export Restraints", "Low-cost Suppliers", "Market Disruption", etc., which were outside the purview of GATT rules. They were
applied against the developing and state trading countries. For instance, these restrictions affected over 50 percent of the French imports and 45 percent of those of United States.\textsuperscript{10}

It was held that the role of GATT was being undermined by concluding several bilateral, discriminatory and restrictive arrangements outside the GATT rules. The European Economic Community (EEC) and the US had placed many restrictions on the imports from Brazil, Hong Kong, Korea, and a host of other developing countries besides Japan, after bilateral negotiations. At the time of the conclusion of the Uruguay Round negotiations over 100 MFA type bilateral agreements were in force in the World which restricted the exports of developing countries to the developed ones.\textsuperscript{11}

It was also criticized that the increasing use of subsidies had been another important factor in side-tracking the GATT. This is because the GATT's Rules on the subsidies were not explicit. The GATT Rules permitted domestic subsidies but they led to retaliation as they damaged the trade interests of other countries. The result was further worsening of open trade among the countries. According to another criticism the "Safeguard Rules" under the Article XIX of the GATT allowed the contracting parties to grant protection in case of need, such as injurious dumps of subsidized imports, which several the balance of payments position. However, the temporary restrictions permitted under the escape clause had become the permanent feature of the world trading system.\textsuperscript{12}
From the viewpoint of critics the GATT Rules in Article XXIV which permitted the formation of customs unions and free-trade areas had been distorted and abused. These Rules set many ambiguities, which had seriously weakened the GATT. The benefits of MFN Rules had failed to reach all the contracting parties uniformly.

Highlighting the deficiencies of GATT, an analyst maintained that the GATT being a mandatory body did not possess any mechanism to get its Rules implemented by the contracting parties. The procedure for disputes settlement consisted of a panel of three to five independent experts whose recommendations had not legal binding. This was a serious weakness of the GATT. It was perhaps due to these inherent loopholes in the working of GATT that as much as 80 per cent of world trade was conducted outside the GATT Rules. Indeed the Uruguay Round concluded on December 15, 1993 marks the end of the longest debate in the history of the Globe. Arthur Dunkel, the erstwhile Director General of GATT declared that the time had come for GATT 1947 to be replaced by a new World Trade Organisation, securing for all time fair norms and forums for multi-lateral trade and commerce among the Nations of the World.\textsuperscript{13}

**ORIGIN OF WTO**

The World Trade Organisation (WTO) came into being on January 1, 1995 with the support of 85 founding members, including India. It has
become the Third Economic Pillar of world wide dimension along with the International Monetary Fund (IMF) and the World Bank. The WTO replaced the GATT. It was the product of deliberations of Bretton Woodst Conference, held in July 1994. The WTO is conceived as an international organization to laydown the rules and regulations governing the international trade between different countries. It was established by an Agreement signed by 125 participant nations on April 15, 1994 at Marrakesh (MORACCO). This Agreement is called as the Agreement Establishing the World Trade Organisation. As many as 77 of the 125 countries which signed the Uruguay Round accord of the GATT became members of the WTO, including India. Gradually its membership has increased to 132 with the accession of Panama. The WTO is distinctively as well as well as qualitatively an improvement over the GATT.\textsuperscript{14}

The WTO is different from the GATT in the following respects:

(i) GATT was an adhoc and provisional agreement where as the WTO is permanent with strong legal base.

(ii) The WTO is more global in its membership than the GATT. Its prospective membership is already around 150 countries and territories with many others considering accession.

(iii) It has a far wider scope than its predecessor, bringing into the multilateral trade system, for the first time, trade in service,
protection of intellectual property rights, and investment. Other core issues include: labour and environment standards, government procurement, information technology and so on.

(iv) It is a full-fledged international organization in its own right while the GATT was basically a provisional trading mechanism without a secretariat.

(v) It administers an unified package of agreements to which all members are committed. In contrast, the GATT framework includes many important side agreements (for example anti-dumping measures and subsidies) whose membership is limited to a few countries.

(vi) It contains a much-improved version of the original GATT Rules plus a lot more. The new version, called the GATT 1994, clarifies and strengthens the original GATT Rules for trade in goods at the international level.

(vii) It reverses the policies of protection in certain "Sensitive" areas, which were more or less tolerated in the old GATT. Under various Agreements, export restraints on textiles and clothing will be dismantled, trade in agriculture reformed and "grey area" trade measures the so called voluntary export restraints phased out.
FUNCTIONS OF THE WTO

The following are the functions of the WTO.\(^{15}\)

(i) It facilitates the management of the Multi-lateral Trade Agreements (MTAs) and the Pluri-lateral Trade Agreements (PTAs) for the fulfillment of their obligations.

(ii) All Multi-lateral Trade Relations concerning the above Agreements are negotiated by the members of this forum.

(iii) The WTO also facilitates the implementation of results of the negotiations decided by the ministerial conferences.

(iv) It administrates the understanding on Rules and procedures Governing the settlement of the Disputes, Forming part of the Agreements (MTA’s and PTA’s)

(v) The WTO is responsible for administration of the Trade Policy Review Mechanism (TPRM) forming a part of the Agreement.

(vi) It is also the organ for establishing co-ordination with other wings of the UNO such as the International Monetary Fund – (IMF), and the International Bank for Reconstruction and Development (IBRD) and its affiliated agencies.
SOME UNIQUE FEATURES OF WTO

The WTO is an unique organization comprising several distinctive features. Some of the distinctive features of the WTO are discussed as follows: 16

1. THE WTO AS BINDING LEGAL AGREEMENT

The WTO is the legal and institutional foundation of the multilateral trading system. Although there are a limited number of examples where other international economic institutions place legally binding (contractual) obligations on their members, the WTO is unique both in the extent of its contractual obligations (including policy bindings contained in each member's schedules) and in the enforcement mechanism built into its system for resolving disputes. At the end of an integrated dispute settlement process that covers a wide range of trade-related policies in the areas of goods, services, and the protection of intellectual property, there remain certain multilaterally authorized trade sanctions. This was true with the GATT and, as a result of major changes agreed to in the Uruguay Round that make the dispute settlement process much more automatic (individual countries can no longer block the process). It is even more true with the WTO. It is a critically important feature of the WTO and, just as it did with the GATT, it covers virtually everything that occurs in the WTO context.
The obligations of WTO members are contained in the results of the Uruguay Round of Multi-lateral Trade Negotiations, formally adopted in Marrakesh in April 2004 and comprising twenty nine individual legal texts and twenty eight additional ministerial declarations, decisions, and understandings that spell out further obligations and commitments (altogether 1558 pages in the English Version), together with approximately 26,000 pages of Computer Printout detailing each member's schedule of tariff concessions and schedule of services commitments. In contrast to the GATT, every WTO member must submit schedules on tariff concessions and services commitments and with only very limited exceptions, mainly for the least - developed countries - every member accepts a common set of rules and disciplines covering goods, services, and intellectual property (the so-called single undertaking).17

The Council and Committees and other structures provide an overview of the institutional structure of the WTO. Between the meetings of the Ministerial Conferences, the main governing body is the General Council. The Council also meets in two other forms as the Dispute Settlement Body, to oversee the dispute settlement procedures, and as the Trade Policy Review Body, which conducts regular reviews of WTO members trade polices and practices. The main bodies that report to the General Council are the Council for Trade in Goods, the Council for Trade in Services, and the Council for Trade-Related Aspects of Intellectual Property Rights. Under these three councils are various committees, each responsible for administering specific
Agreements and preparing and adopting decisions for approval by the respective council.

II. COMPOSITION

All the WTO's Councils and Committees are open to the members, and in practice the membership is virtually identical in all respects. This is in contrast to several similar institutions in which the body that meets regularly is composed of a sub-group of members, with the entire membership meeting very rarely, only to decide matters that require action by all members.

III. VOTING

Unlike the IMF and World Bank, which have weighted voting (depending upon the capital contributions) system the WTO adopted "One Country One Vote" system. Except for waivers and accessions, where mail ballots were used, voting very rarely occurred in the GATT, there being a strong preference among members to operate on the basis, of consensus and there is no obvious reason to expect the situation to be very different in the WTO. The Article IX on decision making states: "The WTO shall continue the practice of decision-making by consensus followed under GATT 1947. Except as otherwise provided, where a decision cannot be arrived at by consensus, the matter at issue shall be decided by voting".
IV. RESOURCES OF THE WTO

The WTO is assigned with the three categories of resources to carry out its mandate. They are: the member countries delegates stationed at in Geneva, their supporting staff in national capitals, and the WTO Secretariat. Because it is not always clear whether the term “the WTO” refers to all three resources or to just the Secretariat. The “WTO family” refers to all these three. However, it is not clear that the reference is to an aggregate of the delegates, support staff in capitals, and the Secretariat. A Fourth category of resources, which traditionally has not been important to GATT/WTO work but which shows signs of perhaps becoming more important in the future, involves co-operation with other inter governmental organizations and non governmental organizations (NGOs).18

V. NATIONAL DELEGATES

One of the most important distinguishing features of the WTO, relative to other international organizations, is the very active role the delegates from member countries play in the WTO’s day-to-day activities. In other words, Geneva based delegations are a very important part of the WTO’s resources. Indeed, a number of delegations like to stress that the WTO is a “member-driven” organization, presumably in contrast to other unnamed international organizations. Thus such considerations as the number of members with permanent delegations resident in Geneva, the size of those delegations,
extent of the individuals professional experience with GATT/WTO activities, the support they receive from capitals, and the frequency of ministerial level meetings are all important for the operations of the WTO.

As on April 1997 the WTO had 131 members. Of these members, 97 have one or more full-time representatives resident in Geneva, but in many instances they also have to cover other international organizations headquartered in Geneva (UNCTAD, ILO, WHO, WIPO, and so forth). The remaining 34 governments (one quarter of the membership) are represented either by staff at embassies elsewhere in Europe or by staff in the national capital. Many of these countries are small in terms of population (15 had a population under one million in 1995), but 88 of the members without a resident representative in Geneva have populations ranging from 6.5 to 17.5 million.19

Among the 97 WTO members stayed at Geneva in June 1997, the size of the WTO delegation ranged from one professional to twenty two, with an average of just five professionals per each delegation. Further, six members reported WTO delegations with more than one professional as in the case of Brazil, the European Community, and the United States (eleven each), Thailand (fifteen), the Republic of Korea (Seventeen), and Japan (twenty-two). In interpreting these figures, and keeping in mind the nature of the WTO as a "member-driven" organization, it is necessary to emphasize that all the WTO councils, committees, and working groups are made open to all the
members. Keeping in mind, the heavy workload of the WTO four councils, eighteen committees, one negotiating group, and two working parties on services, the Textiles Monitoring Body and the Trade Policy Review Body including the three new working groups on investment, competition, and government procurement were set up at the Singapore Ministerial Conference. 20

In 1995, about 454 meetings were held by the WTO that used interpreters. Allowing for approximately ten weeks in a year during which a few, if any, meetings took place, those 454 meetings meant an average of nearly 11 meetings a week on various issues. Of course, the meeting schedule is often more intense in certain periods. In the first half of 1996 alone the number was 415; which meant 47 percent increase over the first half of 1995 while the figure for 1996 is 667 meetings which works out to about 16 meetings a week. For meetings of all kinds, including those with interpretation, the 1995 figure was 1,650 (39 per week), with the number of such meetings in the first half of 1996 (46 per week) running 17 per cent ahead of the first half of 1995. And it is not simply an increase in the number of meetings, but also in time level of specialized knowledge required by the expanded mandate agreed to in the Uruguay Round. While officials from capitals participate in certain WTO meetings, the workload is carried primarily by the Geneva delegations, with the assistance of the secretariat staff. 21
provisionally added in 1989 and made permanent under the WTO Rules. The fifth function is the only completely new addition.

Another change, which it is premature to describe as a new goal but which, nevertheless could have important implications for the WTO’s mandate in coming years, is the reference to “sustainable development” in the Preamble to the WTO. This provided, for example, a rationale for the formal creation of the WTO Committee on Trade and Environment.23

As is very well known an expansion of the basic goals of the GATT was not the most important change in the mandate to come out of the Uruguay Round. Much more important were the expansion to a major new sector and to major new policy areas. The list of sectors covered by the multi-lateral rules expanded to include different services. As noted above, the addition of this sector expanded the list of national policies covered by the multi-lateral rules to include investment policies in the service area. The list of national policies covered by the multilateral rules expanded; in particular, it includes national laws for the protection of intellectual property. Other new policy areas specified by the WTO Rules include Sanitary and Phyto Sanitary Regulations, and Regulations for reshipment inspection.24
THE WTO’s CORE ACTIVITIES: RULE WRITING AND ENFORCEMENT

The core activity of the WTO relates to the negotiation and implementation of explicit global rules on government policies relating to cross-border trade. This activity is explicitly international; it relates in the treatment by one government of internationally traded goods and services produced in other states, relative to those produced in third states and within its own state.

Quite unlike the IMF whose primary activity is adjustment assistance in the form of advice and loans to individual countries, or the World Bank, whose main function is to extend development assistance (advice and loans) to individual countries, the primary of the WTO is rule writing and enforcement of an explicit global regime. It is an organization that writes rules and, in so doing, makes laws with which its contracting parties agree to abide. Unlike the Fund and the Bank, whose effectiveness ultimately stems from a combination of an internal knowledge base and an ability to exert conditionality on individual countries, the effectiveness of the WTO rests upon its combination of a global forum in which rules can be brokered and a dispute settlement process in which they can be enforced.25
THE SUMMITS AND CONFERENCES OF WTO

I. THE SEATTLE SUMMIT:

The Uruguay Round (UR), though the longest in the GATT history, could not complete its mandate and therefore, left many issues for further negotiations. This happened basically because its agenda was large as well as novel. The pre-UR GATT had always focused on trade in goods for which there was an established methodology for negotiations. The UR brought into the agenda sectors such as agriculture and services. Their sector characteristics are complex as well as different from those of goods. The implications of trade liberalization in these sectors were the very limited Governmental controls on both agriculture and services which are perceptibly higher, when compared to those in the goods sector in most countries which made it difficult to negotiate market access in these areas.

Uruguay Round also brought under the ambit of negotiations for the first time new issues such as Trade Related Intellectual Property Rights (TRIPs) and Trade Related Investment Measures (TRIMs). The third Ministerial Conference was held at Seattle in US between 30th November and 3rd December 1999. The issues that came up for discussion were too complex and the divergence in the national practices was too great for all issues, which were finally settled. Many of the other agreements negotiated also
provided mandatory review procedure. In all, the mandatory review procedure comprises the following.\textsuperscript{26}

i) Operation of trade policy review mechanism;

ii) Notification procedures;

iii) Implementation and operation of the Agreement on Customs valuation;

iv) Implementation and operation of the Agreement on Import Licensing Procedures;

v) Implementation and operation of the Agreement on Subsidies and Countervailing Measures;

vi) Implementation and operation of the Agreement on Anti-dumping practices;

vii) Implementation and operation of the Agreement on Technical Barriers to Trade;

viii) Technical aspects of the Agreement on Rules of Origin;

ix) Pre-shipment inspection;

x) Sanitary and Phyto-sanitary Measures;

xi) Dispute Settlement Rules and Procedures;

xii) TRIMs;
II. DOIHA CONFERENCE

At a meeting in Geneva on 31st July 2004, the World Trade Organization took a decision which effectively completed half of the trade negotiations launched in Doha in November 2001. The Development Agenda (DDA) was formulated. The text adopted in this context has set the parameters of the future package in five key areas: agriculture, industrial products, development issues, trade facilitation and services. To complete the Round, the framework was filled out, notably with relevant figures. The DDA is crucial to promote international economic growth and helped the developing countries integrate into the global economy. The decision has given a clear signal that the multilateral trading system can deliver on the real needs of all its members, especially developing counties.

Speaking from Geneva, EU Trade Commissioner Pascal Lamy said: "The DDA is about making trade work for all, and delivering growth and development. After the setback in Cancun, today's decision shows that the multilateral trading system is alive and kicking. But we have only walked half of the way; we need now to rapidly conclude this round, thus bringing good
news to a world economy in need of stimulus”. He added, “The EU letter circulated in May appears to have triggered a much needed impetus in the talks which have now succeeded. It is another demonstration that when Europe stands united we can punch our weight and moreover, to the benefit of the entire trading community, especially developing countries.”

The text adopted on 31st July known as the “Oshima Text” by reference to the Chairman of the WTO’s General Council, Ambassador Oshima sets clear and precise parameters on each of the key issues under negotiation. In the months ahead WTO members will develop the agreed framework into concrete, detailed and specific commitments with a view to completing the Round as soon as possible.

The DDA’s final result remains an indivisible package in the form of a single undertaking for all WTO members: “nothing is agreed until everything is agreed”. In addition to the five issues addressed in this decision, the final result should also cover the remaining items on the agenda satisfactorily such as trade and environment, dispute settlement, geographical indications and anti-dumping rules.

The WTO’s fourth ministerial meeting at Doha in Qatar, compared with the previous one, was more orderly and fruitful. It was orderly because the hooligans in the streets were not allowed to disrupt its deliberations. It was fruitful because it succeeded in launching, at least formally, global negotiations on world trade in accordance with its mandate. Otherwise the
meeting proceeded in the traditional fashion of the WTO. There was a wide gap in the positions of the main participants. To begin with the members made formal presentation of national aspirations and positions, mostly for public consumption. Simultaneously, interested groups got together on the margins to reconcile divergent views. Slowly with mutual give and take, most of the differences were resolved until a hard core of outstanding issues defied solutions. This was the situation at Doha Conference from November 9 to 13. Then a small number of relevant countries engaged themselves behind closed doors on November 14 in a battle of attrition. There was no agreement in sight and India was holding out all by itself. The participants employed the ancient modalities of negotiations. They used trade offs, carrots and sticks, and blatant bullying and arm-twisting to produce a compromise solution 18 hours after the deadline. Only the wise men, whose sole experience is bargaining over the prices with street hawkers, tend to imagine that multilateral negotiations with their panoply of sinister tricks could take place for the sake of transparency in the entire process of international publicity.

The Ministers approved at Doha what they called "a broad and balanced" work programme. It consists of commitments to start negotiations in the services sector and for liberalisation of agricultural trade as well as on issues related to the implementation of certain Uruguay Round agreement. In addition, the work programme envisages future negotiations on trade and investments, trade and competition policy, transparency in government
procurement and trade facilitation. There would also be narrowly defined negotiations on trade and environment.31

The results of the Doha meeting are contained in two declarations and a decision. The main declaration contains the objectives and parameters of the subjects for immediate and future negotiations. The second declaration permits the member countries to override corporate patents during public health emergencies. The decision specifies certain aspects of implementation of particular agreements that need urgent attention.32

The Ministerial Conference at Doha produced three key documents: (i) Decision on Implementation-Related Issues and concerns, which addresses a number of complaints of developing countries with respect to the implementation of the Uruguay Round (UR) Agreement; (ii) Declaration on the TRIPs Agreement; and (iii) Doha Ministerial Declaration, which outlines the work programme for the new round.

In assessing the Decision on Implementation-Related Issues and Concerns and the Declaration on the TRIPs Agreement and Public Health, it must be kept in mind that the WTO Decisions and Declarations do not have the same legal status as the WTO Agreements. More concretely, in a WTO dispute, if the provisions in the declaration on the TRIPs Agreement are to be implemented it becomes difficult to identify the relevant Document. A brief description of each of the three Documents is as follows:33
(I) DECISION ON IMPLEMENTATION

The Decision on Implementation – Related Issues and Concerns had been pushed heavily by India with the backing of many developing counties, especially in Asia and Africa. Spanning over eight single-space pages substantively it effects several relatively minor, often in consequential, concessions to developing countries with respect of the implementation of the UR Agreement.

(II) DECLARATION ON THE TRIPs AGREEMENT AND PUBLIC HEALTH

The initiative for the Declaration on the TRIPs Agreement and Public Health was led by Brazil, India and South Africa and enjoyed wide support among the developing countries. Setting aside the caveat noted above on its legal standing relative to the TRIPs Agreement, the declaration was a significant victory for developing countries. The declaration acknowledges the legitimacy of the member countries right to protect public health and promote access to medicines for all. More concretely, it recognizes each member's "right to grant compulsory licences and the freedom to determine the grounds upon which such licences are granted". It also gives each member the "right to grant compulsory licences and the freedom to determine the grounds upon which such licences are granted". It gives each member the "right to
determine what constitutes a national emergency or other circumstances of extreme urgency" for the purpose of implementing the TRIPS Agreement.

(III) THE DOHA MINISTERIAL DECLARATION

The Doha Ministerial Declaration is a long and complex document. The main negotiating agenda of the Declaration can be divided into four parts (1) trade liberalization; (2) trade and environment; (3) WTO rules; and (4) the so-called 'Singapore Issues' comprising investment, competition policy, trade facilitation and transparency in government procurement. Negotiations on the first three items constitute a single undertaking and are to be concluded by January 1, 2005. As regards the Singapore Issues, negotiations on them may not start until after the Fifth Ministerial Conference held in 2003 and even then it is foregone conclusion. The four parts of the Doha Ministerial Declaration can be explained in the following way.

(1) TRADE LIBERALISATION

The trade liberalization agenda is wide-ranging and includes industrial goods, agricultural goods and services. The last two of these items have been under negotiation since January 1, 2000 as a part of the UR built-in agenda. In the area of industrial goods, developing countries have complained since the UR Agreement that peak tariffs in developed countries are concentrated in labour intensive goods, textiles and clothing, leather and leather products and footwear. The Ministerial Declaration gives this complaint due consideration.
by agreeing to negotiate reductions in or elimination of tariffs including tariff peaks, high tariffs, and tariff escalation particularly in products of export interest to developing countries.\(^5\)\(^6\)

In the area of agriculture, the members have committed themselves to comprehensive negotiations aimed at substantial improvements in market access, reduction in trade-distorting domestic support measures. European Union (EU) had emergently opposed the insertion of the phrase "with a view to phasing out" and agreed to it only after other members agreed to the qualification that the declaration would not prejudge the outcome of negotiations.

In services, the declaration recognizes the ongoing negotiations since January 1, 2000 and refers to the large number of proposals submitted by the members on a wide range of sectors and several horizontal issues including the movements of people. It asked the participants to submit initial requests for specific commitments by June 30, 2002 and initial offers by March 31, 2003.\(^5\)\(^7\)

(2) TRADE AND ENVIRONMENT

The subject of environment was studied at the WTO under the auspices of the Committee on Trade and Environment. But the Doha Declaration brings it into the negotiating agenda for the first time. India and most other developing countries had insisted on it. Fortunately, the
negotiating mandate is quite limited and unlikely to damage the interests of developing countries. It calls for negotiations on (a) the relationship between existing WTO rules and specific trade obligations set out in multilateral environmental agreements (MEAs); (b) procedures regular WTO committees, and the criteria for the granting of observer status; and (c) the reduction of tariff and non-tariff barriers to environmental goods and services. With respect to the first subject, the declaration explicitly notes that the negotiations shall not prejudice the WTO rights of any member that is not a party to the MEA in question. This means that trade sanctions by MEA signatories on non-signatories are ruled out.\(^\text{38}\)

(3) WTO RULES

The Declaration opens WTO in three areas to negotiations: (1) anti-dumping; (2) subsidies and countervailing measures; and (3) regional trade agreements. The first of these was a major concession given by the United States to Japan and developing countries. Under the second item, members have agreed to open up the issue of subsidies, which is an important concession to the developing countries. The third item has been under discussion at the WTO under the auspices of the Committee on Regional Trade Agreements; India was one of the countries to have urged its inclusion into the negotiating agenda.\(^\text{39}\)
(4) **SINGAPORE ISSUES**

European Union (EU) had insisted on the inclusion of negotiations for multilateral agreements on investment, competition policy, trade facilitation and transparency in government procurement. A large number of developing countries, especially from Asia and Africa, had opposed the EU demand. India was the most vocal opponent and persisted in its demand to keep the four issues out of the negotiating agenda until the end. According to the deliberately complicated language in the declaration, members "agree that negotiations will take place after the fifth session of the Ministerial conference on the basis of a decision to be taken by explicit consensus, at that session on modalities of negotiations. "Developed countries interpreted this phrasing to mean that the Fifth Ministerial in 2003 is to decide only on the modalities while the agreement to kick off the negotiations is already in place. Many developing countries took the view that the decision on modalities by explicit consensus gives them a veto against the launching of the negotiations by themselves. The clarification, issued by Yussef Hussain Kamal, the Chairman of the Conference, at the request of India favoured the latter interpretation, through the means of legal standing consensus.40

**IV. FIFTH MINISTERIAL CONFERENCE AT CANCUN**

WTO’s Fifth Ministerial Conference was held in Cancun from September 10 – 14, 2003 to step up the engagements of member countries in Doha.
Development Agenda, to strengthen the framework of WTO rules which can guarantee stability and predictability in international trade. Some priority issues of Doha Development Agenda were marked Access in agricultural and non-agricultural products, services, and also special and differential treatment. The biggest gain for poverty alleviation and development lies in these issues. The important issues connected with this Ministerial Conference are as follows:

1. AGENDA

The member nations reached Cancun to arrive at a compromise among themselves that can bring about significant improvement in the market access with a view to phasing out all forms of export subsidies and substantial reductions in trade distorting domestic support. Special and differential treatment for developing countries was supposed to be an integral part of the negotiations and finally an agreement on agriculture requiring flexibility and willingness on the part of all member countries to accommodate each other’s interests was reached at this Conference.

Negotiations on the non-agricultural market access was also high on agenda. It includes elimination or significant reduction of tariff peaks and tariff escalation, which impede their efforts to diversify their exports and developing their manufacturing base. The Conference also offered an opportunity for negotiations on services as compared to other market access
areas including foreign direct investment in telecommunications and financial sectors. The Cancun Conference had opened the opportunity to conclude agreements on twenty five proposals that were agreed upon in Geneva. The draft Ministerial Declaration was circulated among the ministers of member nations to provide them an opportunity to bridge the differences that remain.41

2. SIGNAPORE ISSUES

Next important subject on the Cancun Agenda was Singapore Issues which include trade and investment, trade and competitive policy, transparency in government procurement; and trade procedure (Customs procedures). The Ministerial text and the two options presented in the negotiations in Cancun referred the issues back to Geneva. The G-15 Countries comprising of India, China, Malaysia etc announced their disapproval of negotiating the Singapore Issues, as there was no explicit consensus among the member nations on the modalities of agreements on these issues of incidentally the "explicit consensus" is the term inserted in 2001 Declaration at the insistence of Murasoli Maran, the then Indian Commerce Minister.42

The developed countries and a couple of developing countries such as South Africa and Brazil took the stand that the Singapore Issues which were a part of Doha Round like the agriculture and non-agricultural market access
should be given due consideration. A smaller group of developing countries advocated that each issue should be considered on its own merit. They supported negotiations on two issues only, namely trade facilitation and government procurement. Since Iridia adopted the system of calling tenders for procurement and has transparent rule for customs procure, it has no objection to discuss these two issues. However, the basic reason behind the disapproval was that the developing countries and the least developed countries were not ready to take on new obligations without fully understanding them. Secondly the cost of adopting multilateral rules would be high for them. Therefore, a new coalition was formed to argue the case against the issue of foreign investments and it included the developing countries like India, Malaysia, Indonesia etc.43

3. DEVELOPMENT ISSUES

Under the various Rules the development issues are given special and differential treatment by the WTO. These issues include: implementation; technical assistance; least developed countries commodity issues; small economies; trade, debt and finance, and trade and technology transfer. The implementation of these issues were highlighted by these Rules. In the case of special differential treatment the differences remain between developing and developed countries.44 On implementation issues, developing countries called for addressing all outstanding implementation issues and decisions to be adopted by March, 2004. Mr. Jaitley, the Indian Law Minister said that the
implementation issues must be addressed immediately as all the time limits set for their resolutions have been breached. Without this, the development dimension of Doha Agenda is a mere rhetoric. However, the developed countries argued that they were ready to agree with the negotiation Groups on implementation issues. The developing countries also insisted on giving priority to the issues of extension of the higher level of protection of geographical indications beyond wines and spirits. There remained disagreement whether to consider it as an implementation issue.\textsuperscript{45}

4. OTHER ISSUES

The other issues that came up for discussion in the Cancun Conference included: trade and environment; and geographical indications. The basis of these discussions were the paragraphs 9 and 20 of the Draft Cancun Declaration. Most of the countries were willing to accept the draft paragraphs as they stand. But there was a demand to incorporate in the current draft a reference to issues in the Doha Declaration (Paragraph 19) viz., the relationship between TRIPs and convention on biological diversity, protection of traditional knowledge.\textsuperscript{46}

The TRIPs debate continues despite agreement on 30\textsuperscript{th} August to operationalise the 2001 declaration facilitating access in developing countries to patented medicines at low prices. Some of the NGOs like OXFAM, THIRD WORLD NETWORK etc., regarded as a temporary measure requiring
permanent amendment to the TRIPs agreement which has to be negotiated by 2004 to sort out the following problems:

- The requirement to issue two compulsory licenses in the exporting and importing country.
- Constraint on business practices of the genetic drug companies.
- The new authority given to the WTO relates to second-guess and interfere in the grant of compulsory licenses.

At the very outset of the Conference it was clear that successful conclusion of Cancun depends upon either of the two things.

- The EU and the U.S. meeting the G-21’s demand on agriculture;

and

- The powerful nations

None of these two things has happened and Cancun Conference itself collapsed. The final blow to the Conference came when the developed countries demanded discussion on the Singapore Issues. The last developed countries simply walked off the talks.

The collapse of the talks have put a big question mark on the relevance and legitimacy of WTO. The rich countries must realize that in WTO, which is based on the system of one vote-one country, it is futile and fatal to ignore the concern of developing and the least developed countries.
However everything is not lost. The subject matter has been referred to Geneva with a deadline of 15th December 2003 to meet once again to discuss and sort out matters so that the Doha Round may be successfully concluded.

Some of the specific issues highlighted at the Cancun Ministerial Summit include the following.48

I. The Agreement on Agriculture (AOA) required reduction by developed countries and developing countries of domestic support to farmers, export subsidies and tariffs by a prescribed percentage in a phased manner. Some of the developed countries have not fully implemented the subsidy reduction requirements.

II. The WTO permits non-trade distortion subsidies (referred to as green box & 'blue box' subsidies). However, experience shows that even these can be trade distorting. Developed counties have steadily increased subsidies under these heads.

III. The developing countries have been asked to reduce their import duties so as to provide greater market access. However, India and other developing counties have argued that agriculture is a way of life and employees a large proportion of the work force while contributing significantly to the Gross Domestic Product (GDP). The exposure to volatile international market would affect not only domestic prices but also incomes of the poor.
IV. It was suggested that tariff reductions by developing countries should be matched by substantial reduction of input and export subsidies on agricultural products by developed counties. Further, the peak tariff duties by some of the developed countries on certain agricultural items like wheat, paddy rice, cereal grains, sugarcane, dairy products, and edible oils need to be reduced. The technical barriers to trade and stringent restrictions on exports from developing countries on grounds of sanitary and photo-sanitary regulations, placed by developed countries need to be relaxed to acceptable levels so as to prevent protectionist measures by developed countries on this plea.

V. The developing countries like India have higher industrial tariffs compared to the developed counties. India proposes to reduce most of its tariffs to bring it in line with most of the South East Asian countries and not drastically to the extent proposed by the developed countries. Customs duties are a source of revenue for developing countries. Moreover, the industrial sector faces a number of constraints and some protection to certain crucial industries is considered warranted.

VI. Grant of patents on non-original innovations, particularly those linked to traditional medicines, by developed countries was contested. A mechanism was proposed for the disclosure of source of origin of
biological material used in invention and also obtaining the consent of the country of origin. Further, dissemination of knowledge along with patent rights for seed diversity was emphasized as crucial for developing countries like India where a large population is dependent on agriculture for their livelihood.

VII. Under the Agreement on Trade in Services, the developing countries emphasized the need to relax the restrictions by many of the developed countries on movement of natural persons. India in particular has the advantage in movement of highly skilled and experienced professionals and barriers to their movement should be done away with.

VIII. Developed countries wanted to introduce the new Singapore Issues comprising multi-lateral agreement on investment competition policy, trade facilitation and transparency in government procurement. This was not found acceptable to developing counties in its present form and asked for unbundling of the issues.

The inconclusive Cancun Summit was a serious setback to the member countries in light of the sincere effort made in the numerous rounds of negotiations prior to the main event. It is, however, important to accept that this was a better situation than to be pushed into signing a declaration that would have ignored the concerns of developing countries. This was, at least partly, due to the grouping, at the behest of India, of a few large developing
countries. The group should continue to work together and strive to achieve their common interests in promotion of trade and long term development. 49

STRUCTURE OF THE WTO

The structure of the WTO is as follows:

1. THE MINISTERIAL CONFERENCE

The Ministerial Conference (MC) is the highest body of the WTO. It is composed of the representatives of the members. The Ministerial Conference is the executive organ of the WTO and responsible for carrying out the functions of the WTO. The Ministerial Conference is empowered to take decisions in any matter under the relevant Agreement. The Ministerial Conference of all members meets, at least once every two years. There will be more frequent participation by the trade ministers than occurred under the old GATT, which is intended to strengthen the political guidance of the WTO and enhance the prominence and credibility of its rules in domestic political areas. As the vast experience of the GATT with ministerial meetings suggests, these would help effective use of the time of the Ministers from smaller trading nations. This is because in negotiations the controversial issues tend to be solved at the last moment and require agreement between the major countries. 50 The latter may take a significant amount of time to strike a deal among themselves, thereby marginalizing the potential for participation by ministers of small counties. This lesson was brought home again during the
Seattle ministerial meeting in late 1999, where the trade ministers of developing nations essentially came for nothing. Excluded from the main negotiating forum where the major players and a selected subset of smaller countries were trying to hammer out compromises, many Ministers spent most of the time without serving any purpose. Hence these meetings failed to launch new negotiating round.51

The Marrakesh Agreement establishing the WTO envisages the setting up of a common institutional framework for the conduct of trade relations among its members in matters for which agreements and associated legal obligations apply. The Annexes appended to the WTO Document define the substantive right and obligations of members.52

2. THE GENERAL COUNCIL

The General Council (GC) is an executive forum composed of the representatives of all the members. It discharges the functions of the Ministerial Conference during intervals between meetings of this conference. The GC shall meet as and when it is appropriate and necessary. The General Council is attended by at least 70 percent of the total members usually represented by delegates based in Geneva.

The GC establishes its own rules of procedures and also approves the rules of procedures for the functional councils, namely – council for Trade in Goods, council for Trade in services and council for Trade - Related Aspects

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for Intellectual Property Rights (TRIPs), established by it. The General Council is also responsible for:\(^53\)

(i) The discharge of the responsibilities of the Disputes settlement Body as outlined in the Understanding on Rules and procedures governing the settlement of Disputes (DSU), which forms part of the MTA.

(ii) The discharge of the responsibilities of the Trade Policy Review Body as outlined in the Trade Policy Review Mechanism (TPRM), which forms part of the agreement.

The Disputes Settlement Body and the Trade Policy Review Body, may have their own respective Chairmen and formulate their own respective rules of procedures for fulfillment of their responsibilities.

3. THE FUNCTIONAL COUNCILS OF THE GENERAL COUNCIL

The General Council consists of three Functional Councils working under its guidance and supervision. They are:\(^54\)

(a) Council for Trade in goods.

(b) Council for Trade-in-Services

(c) Council for Trade – Related Aspects of Intellectual Property Rights (TRIPs)
FUNCTIONS OF THE THREE COUNCILS

The functions of the above three Councils can be stated as follows:

(a) The Council for Trade In Goods oversees the functioning of the Multilateral Trade Agreement relating to Trade In Goods.

(b) The Council for Trade in services oversees the functioning of the Multilateral Trade Agreement Relating to Trade in services.

(c) The Council for Trade – Related Aspects of Intellectual Property Rights oversees the functioning of the Multi-lateral Trade Agreement connected with Intellectual Property Rights and obligations, forming part of the Agreement.

These Councils evolve their respective rules and procedures subject to the approval of the General Council Membership of this Council this is open to the representatives of all members. The Council will meet as and when necessary. There are three subsidiary councils operate under the general guidance of the General Council. They are the council for Trade in Goods; the Council for Trade in Services; and the Council for Trade-Related Aspects of Intellectual Property Rights. There are also separate Committee which deal with the interests of developing countries (the Committee on Trade and Development), surveillance of trade restrictions; actions taken for balance of payment purposes; surveillance of regional trade agreement; trade environment linkages; and the WTO’s finance and administration. Further, the
additional committees or working parties deal with matters covered by the GATT or TRIP Agreement. The Committees functioning under the auspices of the Council on Trade in Goods look after subsidies, anti-dumping and countervailing measures, technical barriers to trade (Product standards), import licensing, customs valuation, market access, agriculture, sanitary and phyto-sanitary measures, trade related investment measures, and rules of origin, and safeguards. In addition, working groups have been established to deal with notifications, state trading enterprises, and to study the relationship between trade and investment, between trade and competition policy and the issue of transparency in government procurement. Similarly, specific committees address matters relating to the GATT or TRIPs. In addition to these committees also exist to administer the pluri-lateral Agreements which apply only to those members that sign them. Given their nature, these committees are not under the guidance for the General Council but operate within the general framework of the WTO and inform the Council of their activities. All WTO members may participate in the working of all these councils, and committees, except the Appellate Body, Dispute Settlement Panels, the Textiles Monitoring Body and Committee dealing with Pluri-lateral agreements.

Some 40 countries, committees, subcommittees, bodies and standing groups of working parties functioned under WTO auspices in 2000. Such bodies are open to all WTO members, but generally only the more important
trading nations (less than half of the membership) regularly send representatives to most meetings. Participation reflects a mix of nations interests and resource constraints. Least developed countries in particular tend not to be represented at these meetings – often not having a delegation based in Geneva. All these committees and working parties on accession (averaging close to thirty in the late 1990s), dispute settlement panels, of the regional groups can conduct meetings upto 1,200 in a year at or around the WTO headquarters in Geneva. Most of the WTO business is conducted in English, but many Official WTO meetings required French and Spanish interpretation.\textsuperscript{57}

4. **THE COMMITTEES OF MINISTERIAL CONFERENCE**

The Ministerial Conference (MC) established three functional committees for discharge of functions assigned to them under the Multilateral Trade Agreements (MTAs). These Committees are:\textsuperscript{58}

(a) Committee on Trade and Development,

(b) Committee on Balance of Payments and Restrictions; and

(c) Committee on Budget, Finance and Administration.

These Committees discharge functions, specifically assigned to them by the General Council. They are open to representatives of all members. Specifically, the Committee on Trade and Development periodically reviews special provisions in the Multilateral Trade Agreement in favour of the least
Developed Country Members and reports to the General Council for appropriate action. The bodies under the pluri-lateral Trade Agreements discharge their functions within the Institutional framework of the WTO. These bodies shall keep the General Council informed of their activities on regular basis.59

5. **SECRETARIAT OF THE WTO**

There is a Secretariat of the WTO located at Geneva. It is headed by a Director-General who is appointed by the Ministerial Conference which prescribes the terms and conditions of the Office of the Director-General. The Officials of the Secretariat are appointed by the Director-General who fixes the terms and conditions of their services in accordance with the regulations adopted by the Ministerial Conferences.60

**International Character of the Director-General and the Secretariat**

It needs to be emphasized that the Director-General and all Officials of the Secretariat are exclusively International in character. They are not subject to suggestions or guidance from any individual member country. The Director-General secretariat shall discharge their functions fairly and dispassionately under the rules and boundaries of the International Agreements. Budget and contribution by members.61
The Director – General is responsible for preparing the Annual Budget and Financial statements of the WTO. He presents these financial documents to the Committee on Budget, Finance and Administration. The Committee will review the Annual Budget Estimates and Financial Statement and make their recommendations to the General Council. The Committee on Budget, Finance and Administration shall prepare financial Regulations based, as far as practicable, on the regulations and practices of the GATT 1947.

The Regulations include the following provisions:

(a) Contribution by the Members of the expenses of the WTO

(b) The measures to be taken in respect of the members in arrears

The General Council shall adopt the financial regulations and the annual budget estimates by two-thirds majority comprising more than half of the members of the WTO.

Each member shall promptly contribute to the WTO its share in the expenses of the WTO in accordance with the financial regulations adopted by the General Council.

THE WORKING OF WTO

The day-to-day activities of the WTO are carried out by the Officials affiliated with the delegations of members. The WTO is therefore a sort of body having a wide network of organizations. The WTO Secretariat is the hub
of a very large and dispersed network comprising official representatives of members based in Geneva; civil servants based in the Capitals, of the member countries and national business and non governmental groups that seek to have their governments push for their interests. At the multi-lateral level the operation of the WTO depends on the collective input of thousands of civil servants and governmental officials that deal with trade issues in each member country. Initiatives to launch MTNs and settlement of disputes — the two high profile activities of the WTO — are the sole responsibility of WTO members themselves but not to the Secretariat.

The member – driven nature of the WTO puts a considerable strain on the national delegations of members. Many countries have no more than one or two persons, dealing with WTO matters; a large minority has no delegations in Geneva at all. Active players in the WTO tend to have large delegations. In most instances, a member's WTO representative will also cover meetings at the UNCTAD, the World Intellectual Property Organization (WIPO), the International Labour Organisation (ILO), the World Health Organization, (WHO) the Economic Commission for Europe, and other international organizations located in Geneva.

The WTO Secretariat is relatively small with about 500 staff. Its role is to provide members with technical and logistical support, including organizing meetings of governing bodies and preparing background documentation when requested by committees or the Council. It has very little formal power to
take initiatives. For example, the Director General has no authority to initiate dispute settlement proceedings against a member no matter how blatantly it may have violated the WTO rules. The Secretariat must abstain from providing interpretations to the WTO laws or passing judgments on the conformity of a member’s policy with the WTO rules. The items to be included in the WTO agenda are prepared by the Secretariat. The situation was well described at an informal meeting during the Uruguay Round, where a dipлома addressing the Director-General noted: Sir, there is a difference between you and me; I am a contracting Party and you are a Contracted Party.

The Secretariat plays an important role in reducing transactions costs by distributing information and ensuring transparency by undertaking periodic reviews of members trade policies. The latter is one of the few areas where the secretariat has been given a mandate for undertaking actions on its own responsibility. The Secretariat also facilitates disputes settlement by supporting the work of various panels. Even though the WTO Secretariat members are not decision-makers, they can have substantial influence as a result of their technical skills, institutional memory and familiarity with the issues. The less knowledgeable and assertive is the chairman of a given working party or committee, the more stronger the influence of the Secretariat is likely to be. The smaller and less competent a given country’s delegation, the more the Secretariat’s impact is felt. The Director-General, the
head of the WTO Secretariat is the guardian of the collective interests of the member states. The WTO's rules and procedures allow the Director-General to act as a broker—not a decision-maker in several situations. Historically, they have often played an important role in encouraging the member countries to maintain and strengthen multilateral cooperation in trade.67

The small size of the Secretariat is somewhat misleading. As mentioned above, the WTO is a network-based organization. The WTO Secretariat and the national delegates in Geneva work in close cooperation with the numerous civil servants in their respective capitals, Ministries of trade, foreign affairs finance, telecommunications, and agriculture, and also with the specialized bodies such as customs authorities, central banks, health and safety standards administration environmental protection agencies, national patent and trademark agencies, and so on. All tend to have staff that deal with the WTO issues and provide inputs into WTO activities. The total size of the network is impossible to determine, but certainly spans at least 5,000 people. The Secretariat's essential function is to keep that network operating smoothly. Once the network nature of the institution is recognized, it becomes clear that the WTO is a much larger entity than what the Secretariat suggests.68

The financial contributions to the budget of the WTO are based on the GATT practice. The WTO's income comes from the assessed contributions calculated on the basis of each member's share in the total trade of all WTO
members, computed as a three year average of the most recent trade figures. If this share is less than 0.12 per cent, a minimum contribution is assessed. In 1999, the nine largest trading nations contributed approximately two-thirds of total contributions. The multilateral trade and tariff agreements depend upon the WTO institutional infrastructure. Before the establishment of WTO, the GATT became the central focus of coordinating activity among the nations in the field of international trade.

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