CHAPTER 2

WTO- A CONCEPTUAL FRAMEWORK
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CHAPTER 2

WTO- A CONCEPTUAL FRAMEWORK

2.1 Introduction to WTO

The World Trade Organization (WTO) was established on 1st January 1995. It is located in Geneva, Switzerland. It deals with the rules of trade between nations at a global or near-global level. It is a forum for governments to negotiate trade agreements and settle trade disputes.\(^{23}\)

A snapshot of WTO

<table>
<thead>
<tr>
<th>Location</th>
<th>Geneva, Switzerland</th>
</tr>
</thead>
<tbody>
<tr>
<td>Established</td>
<td>1st January, 1995</td>
</tr>
<tr>
<td>Created by</td>
<td>Created by GATT's Uruguay Round of Negotiations (1986-94)</td>
</tr>
<tr>
<td>Membership</td>
<td>153 countries</td>
</tr>
<tr>
<td>Head</td>
<td>Director General</td>
</tr>
<tr>
<td>Highest Decision</td>
<td>Ministerial Conference – of designated Ministers of Member Countries (held at least every two years)</td>
</tr>
<tr>
<td>Making Level</td>
<td></td>
</tr>
<tr>
<td>Functions</td>
<td>Administering WTO Agreements (GATT, GATS, TRIPS &amp; Others)</td>
</tr>
<tr>
<td></td>
<td>Forum for Trade Negotiations</td>
</tr>
<tr>
<td></td>
<td>Handling Trade Disputes among member countries</td>
</tr>
<tr>
<td></td>
<td>Monitoring National Trade policies</td>
</tr>
<tr>
<td></td>
<td>Co-operation with other International Organizations</td>
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\(^{23}\) Source: [www.wto.org](http://www.wto.org) accessed on 02-02-2007
The main aim of WTO

At the core of WTO are its agreements which have been negotiated and signed by most of the world's trading nations. These documents provide the legal ground-rules for international commerce. They are essentially contracts, binding governments to keep their trade policies within agreed limits. The aim is to help producers of goods and services, exporters and importers conduct their business, while allowing governments to meet social and environmental objectives.

The system's overriding purpose is to help trade flow as freely as possible, so long as there are no undesirable side effects. It also means ensuring that individuals, companies and governments know what the trade rules are around the world and giving them the confidence that there will be no sudden changes of policy for which the rules have to be transparent and predictable.

The WTO also has a system to settle trade disputes. The need to settle trade disputes arise because trade relations between countries often involve conflicting interests and hence they give rise to trade disputes. Therefore, there is a need to interpret agreements, including those painstakingly negotiated in the WTO system. The most harmonious way to settle these differences is through some neutral procedure based on an agreed legal foundation. This is the purpose behind the dispute settlement process written into the WTO agreements.\(^\text{24}\)

\(^{24}\) Sumitra Chisti, "Dispute Settlement System under World trade Organisation", Occasional paper 19, Indian Institute of Foreign Trade, New Delhi, 2001
2.2 Principles of the trading system

The principles, which are the foundations of the multilateral trading system that are common to all the WTO agreements, emphasize that the trading system should be:

a) Trade without discrimination

i. Most-favoured-nation (MFN)

Under the WTO agreements, countries cannot normally discriminate between their trading partners. If a country grants a particular trading partner a special favour, such as a lower customs duty rate for one of their products, then it will have to do the same for all other WTO members. This principle is known as most-favoured-nation (MFN) treatment. Some exceptions are allowed. For example, countries can set up a free trade agreement (FTA) that applies only to goods traded within the group thereby discriminating against goods from outside. Or they can give developing countries special access to their markets. Or a country can raise barriers against products that are considered to be traded unfairly from specific countries.

ii. National treatment

This clause says that the imported and locally produced goods should be treated equally, at least after the foreign goods have entered the market. The same should apply to foreign and domestic services and to foreign and local trademarks,
copyrights and patents. National treatment is applicable only when a product, service or item of intellectual property has entered the market. Therefore, charging customs duty on an import is not a violation of national treatment, even if locally produced products are not charged an equivalent tax.

b) Freer trade

Lowering trade barriers is one of the most obvious means of encouraging trade. The barriers concerned include customs duties (or tariffs) and measures such as red-tapism, exchange rate policies, import bans or quotas that restrict quantities selectively.

c) Predictability

Businesses and trade relations can be sustained and in fact actually thrive if there is stability and predictability in the business and trade policies of a country. The multilateral trading system is an attempt by governments to make the business environment stable and predictable.

In the WTO, when countries agree to open their markets for goods or services, they “bind” their commitments. For goods, these bindings amount to ceilings on customs tariff rates. In agriculture, 100% of products now have bound tariffs. The result of all this has been a substantially higher degree of market security for traders and investors.
The system tries to improve predictability and stability by discouraging the use of quotas. Many WTO agreements require governments to disclose their policies and practices publicly within the country or by notifying the WTO. The regular surveillance of national trade policies through the Trade Policy Review Mechanism provides a further means of encouraging transparency both domestically and at the multilateral level.

d) Promoting fair competition

The WTO is a system of rules dedicated to open, fair and undistorted competition. The rules on non-discrimination, viz. MFN, national treatment, dumping (exporting at below cost to gain market share) and subsidies are designed to secure fair conditions of trade. Many WTO agreements aim to support fair competition in agriculture, intellectual property and services.

e) Encouraging development and economic reform

The WTO system contributes to development by encouraging free trade. It envisages implementation of economic reforms that facilitate bringing down trade barriers. The developing countries have been given time as they need flexibility to implement the system's agreements. Also, the agreements themselves inherit the earlier provisions of GATT that allow for special assistance and trade concessions for developing countries, so that they can integrate smoothly to the new system.
2.3 Reasons for emergence of WTO

The necessity to have a liberalised trade environment led to the emergence of the World Trade Organisation. The economic case for an open trading system, based on multilaterally agreed rules, rests largely on commercial reasons. All countries, including the poorest, have assets viz. human, industrial, natural, financial, which they can employ to produce goods and services for their domestic markets or to compete overseas. Economics tells us that we can benefit when these goods and services are traded. The principle of “comparative advantage” says that countries prosper, first by taking advantage of their assets in order to concentrate on what they can produce best, and then by trading these products for products that other countries produce best.

In other words, liberal trade policies i.e. the policies that allow the unrestricted flow of goods and services sharpen competition, motivate innovation and breed success. They multiply the rewards that result from producing the best products, with the best design, at the best price. Competitiveness can also shift between countries. A country that may have enjoyed an advantage because of lower labour costs or because it had good supplies of some natural resources, could also become uncompetitive in some goods or services as its economy develops. However, with the stimulus of an open economy, the country can move on to become competitive in some other goods or services. Nevertheless, the temptation to ward off the challenge of competitive imports is always present. Developed nations are more likely to yield to the call of protectionism, for short-term political gain, through
subsidies, complicated red tape, and hiding behind legitimate policy objectives such as environmental preservation or consumer protection as an excuse to protect producers. Protection ultimately leads to inefficient producers supplying consumers with outdated, unattractive products. In the end, factories close and jobs are lost despite the protection and subsidies. If other governments around the world pursue the same policies, markets contract and world economic activity is reduced. One of the main reasons for the emergence of WTO is to prevent such a self-defeating and destructive drift into protectionism. The other reasons for emergence of WTO are: to instill confidence in businessmen that there will be no sudden changes in policies of countries, to ensure that rules will be transparent and predictable, and to cater to the need, to have a mechanism, to settle trade disputes between countries.

Figure 2.a: Acceleration in world trade and production since creation of GATT and WTO (Source: www.wto.org, accessed on 02-02-2007)
2.4 The agreements under WTO

The Uruguay Round agreements, with six main parts, are the basis of the present WTO system. The six main parts are:

i. An umbrella agreement (the agreement establishing the WTO)

ii. Agreement for trade in goods: General Agreement on Trade and Tariffs (GATT)

iii. Agreement for trade in services: General Agreement on Trade in Services (GATS)

iv. Agreement for trade related to Intellectual property: Trade Related aspects of Intellectual Property Rights (TRIPS)

v. Agreement for dispute settlement: Dispute Settlement Mechanism

vi. Agreement for reviews of governments' trade policies: Trade Policy Review Mechanism

Table 2.1: Basic structure of WTO

<table>
<thead>
<tr>
<th>Umbrella</th>
<th>Agreement establishing the WTO</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Goods</td>
</tr>
<tr>
<td>Basic principles</td>
<td>GATT</td>
</tr>
<tr>
<td>Additional details</td>
<td>Other goods agreements and annexes</td>
</tr>
<tr>
<td>Market access commitments</td>
<td>Countries' schedules of commitments</td>
</tr>
<tr>
<td>Dispute settlement</td>
<td>Dispute settlement mechanism</td>
</tr>
<tr>
<td>Transparency</td>
<td>Trade policy review mechanism</td>
</tr>
</tbody>
</table>

25 Source: www.wto.org accessed on 02-02-2007
Additional agreements
The two "plurilateral" agreements are civil aircraft and government procurement.

The ‘additional details’ mentioned in the diagram above consists of the following agreements and annexes:26

For goods (under GATT)

i. Agriculture

ii. Health regulations for farm products (SPS)

iii. Textiles and clothing

iv. Product standards (TBT)

v. Investment measures

vi. Anti-dumping measures

vii. Customs valuation methods

viii. Preshipment inspection

ix. Rules of origin

x. Import licensing

xi. Subsidies and counter-measures

xii. Safeguards

For services (the GATS annexes)

i. Movement of natural persons

ii. Air transport

iii. Financial services

iv. Shipping

v. Telecommunications

26 Source: www.wto.org accessed on 02-02-2007
2.4.1 Aspect of tariffs

WTO facilitated bringing in more bindings through negotiations and tariffs closer to zero.

‘Binding’ tariffs

The market access schedules represent commitments not to increase tariffs above the listed rates i.e. the rates are “bound”. For developed countries, the bound rates are generally the rates actually charged. Most developing countries have bound the rates somewhat higher than the actual rates charged, so the bound rates serve as ceilings.

Developed countries increased the number of imports whose tariff rates are “bound”, i.e. committed and hence difficult to increase, from 78% of product lines to 99%. For developing countries, the increase was considerable i.e. from 21% to 73%. Economies in transition from central planning increased their bindings from 73% to 98%. All this means a substantially higher degree of market security for traders and investors.

One of the achievements of the Uruguay Round was an increase in bindings by member countries, which is illustrated in the table given below:
Table 2.2: Percentages of tariffs bound before and after the 1986–94 talks

<table>
<thead>
<tr>
<th>Tariff lines bound before the 1986-94 talks (%)</th>
<th>Tariff lines bound after the 1986-94 talks (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Developed countries</td>
<td>78</td>
</tr>
<tr>
<td>Developing countries</td>
<td>21</td>
</tr>
<tr>
<td>Transition economies</td>
<td>73</td>
</tr>
</tbody>
</table>

As these are tariff lines, so percentages are not weighted according to trade volume or value.

**Tariff cuts**

There is no legally binding agreement that sets out the targets for tariff reductions i.e. by what percentage they were to be cut as a result of the Uruguay Round. Instead, individual countries listed their commitments in schedules annexed to Marrakesh Protocol to the General Agreement on Tariffs and Trade 1994. This is the legally binding agreement for the reduced tariff rates.

Developed countries’ tariff cuts were for the most part phased in over five years from 1 January 1995. The result is a 40% cut in their tariffs on industrial products, from an average of 6.3% to 3.8%. The value of imported industrial products that receive duty-free treatment in developed countries will jump from 20% to 44%.

The proportion of imports into developed countries from all sources facing tariffs rates of more than 15% will decline from 7% to 5%. The proportion of developing country exports facing tariffs above 15% in industrial countries will fall from 9% to 5%.
2.4.2 Issues regarding agriculture in WTO

Tariffs on all agricultural products are now bound. Almost all import restrictions that did not take the form of tariffs, such as quotas, have been converted to tariffs through a process known as "tariffication". This has made markets substantially more predictable for agriculture. Previously more than 30% of agricultural produce had faced quotas or import restrictions. The first step in "tariffication" was to replace these restrictions with tariffs that represented about the same level of protection. Then, over six years from 1995–2000, these tariffs were gradually reduced in developed countries. The reduction period for developing countries ended in 2005. The market access commitments on agriculture also eliminate previous import bans on certain products.

In addition, the lists include countries' commitments to reduce domestic support and export subsidies for agricultural products.

A major issue plaguing global agricultural trade is distortion. Trade is distorted if prices are higher or lower than normal and if quantities produced, bought and sold are also higher or lower than normal i.e. than the levels that would usually exist in a competitive market.

For example, import barriers and domestic subsidies can make crops more expensive on a country's internal market. The higher prices can encourage over-production. If the surplus is to be sold on world markets, where prices are lower,
then export subsidies are needed. As a result, the subsidizing countries can be producing and exporting considerably more than they normally would.

Governments usually give three reasons for supporting and protecting their farmers, even if this distorts agricultural trade viz.

i. To make sure that enough food is produced to meet the country’s needs

ii. To shield farmers from the effects of the weather and swings in world prices

iii. To preserve rural society

But the policies have often been expensive and they have created gluts leading to export subsidy wars. In the process those countries with less money for subsidies have suffered.

The original GATT included agricultural trade, but it contained loopholes. For example, it allowed countries to use some non-tariff measures such as import quotas, and to subsidize. As a result agricultural trade became highly distorted, especially with the use of export subsidies, which would not normally have been allowed for industrial products. The Uruguay Round produced the first multilateral agreement dedicated to the sector. It was a significant first step towards order, fair competition and a less distorted sector. It was implemented over a six-year period and is still being implemented by developing countries under their 10-year period, which began in 1995, as the Doha round of negotiations are stalled at present.
2.5 Relevant agreements / provisions of WTO with regard to agriculture

The relevant agreements / provisions of WTO with regard to agriculture are as follows:

a) Agreement on Agriculture

b) Agreement on Sanitary and Phytosanitary Measures (SPS)

c) Agreement on Technical Barriers to Trade (TBT)

d) Agreement on Anti-Dumping

e) Agreement on Subsidies and Countervailing Measures

f) Agreement on Safeguards

g) Non-tariff barriers like import licensing, rules for the valuation of goods at customs, pre-shipment inspection: further checks on imports, rules of origin, investment measures.

a) Agreement on Agriculture

The objective of the Agreement on Agriculture is to reform trade in the agricultural sector and to make policies more market-oriented. This would improve predictability and security for importing and exporting countries alike.

The new rules and commitments apply to:

i. Market access: by removing various trade restrictions confronting imports.

ii. Domestic support: by reducing subsidies and other programmes, including those that raise or guarantee farm-gate prices and farmers' incomes.

iii. Export subsidies and other methods used to make exports artificially competitive.
The agreement does allow governments to support their rural economies, but preferably through policies that cause less distortion to trade. It also allows some flexibility in the way commitments are implemented. Developing countries do not have to cut their subsidies or lower their tariffs as much as developed countries and they are given extra time to complete their obligations. Least-developed countries do not have to lower their tariffs at all. Special provisions deal with the interests of countries that rely on imports for their food supplies and the concerns of least-developed economies.

"Peace" provisions within the agreement aimed to reducing the likelihood of disputes or challenges on agricultural subsidies over a period of nine years, until the end of 2003.

i. Market access

The new rule for market access in agricultural products is "tariffs only". Before the Uruguay Round, quotas and other non-tariff measures restricted some agricultural imports. These have been replaced by tariffs that provide more-or-less equivalent levels of protection i.e. if the previous policy meant domestic prices were 75% higher than world prices, then the new tariff could be around 75%. Hence, converting the quotas and other types of measures to tariffs in this way was called "tariffication".

The tariffication package contained some more provisions. It ensured that quantities imported before the agreement took effect could continue to be imported, and it guaranteed that some new quantities were charged duty rates that were not
prohibitive. This was achieved by a system of "tariff-quotas" i.e. lower tariff rates for specified quantities, higher (sometimes much higher) rates for quantities that exceed the quota. The newly committed tariffs and tariff quotas, covering all agricultural products, took effect in 1995. Uruguay Round participants agreed that developed countries would cut the tariffs (the higher out-of-quota rates in the case of tariff-quotas) by an average of 36%, in equal steps over six years. Developing countries would make 24% cuts over 10 years. Several developing countries also used the option of offering ceiling tariff rates in cases where duties were not "bound" (i.e. committed under GATT or WTO regulations) before the Uruguay Round. Least-developed countries do not have to cut their tariffs. These figures do not actually appear in the Agriculture Agreement. Participants used them to prepare their schedules i.e. lists of commitments. It is the commitments listed in the schedules that are legally binding.

For products whose non-tariff restrictions have been converted to tariffs, governments are allowed to take special emergency actions, known as special safeguards", in order to prevent swiftly falling prices or surges in imports from hurting their farmers. But the agreement specifies when and how those emergency actions can be introduced. For example, they cannot be used on imports within a tariff-quota.
ii. Domestic support

As agreed in the Uruguay Round this clause has set numerical targets for reductions in agricultural subsidies and protection. Only the figures for reducing export subsidies appear in the agreement, which is shown in the table given below.

Table 2.4: Figures for reducing export subsidies

<table>
<thead>
<tr>
<th></th>
<th>Developed countries</th>
<th>Developing countries</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Tariffs</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Average cut for all</td>
<td>-36%</td>
<td>-24%</td>
</tr>
<tr>
<td>agricultural products</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Minimum cut per product</td>
<td>-15%</td>
<td>-10%</td>
</tr>
<tr>
<td><strong>Domestic support</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total AMS cuts for sector</td>
<td>-20%</td>
<td>-13%</td>
</tr>
<tr>
<td>(base period: 1986–88)</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Exports</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Value of subsidies</td>
<td>-36%</td>
<td>-24%</td>
</tr>
<tr>
<td>Subsidized quantities</td>
<td>-21%</td>
<td>-14%</td>
</tr>
<tr>
<td>(base period: 1986–90)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Least developed countries do not have to make commitments to reduce tariffs or subsidies. The base level for tariff cuts was the bound rate before 1 January 1995 or for unbound tariffs, the actual rate charged in September 1986 when the Uruguay Round began. The other figures were targets used to calculate countries’ legally-binding “schedules” of commitments.
A tariff-quota

Figure 2.b: Tariff rate quota

Tariff quota, which is also called as “tariff-rate quota”, is depicted below.

In the above figure, imports entering under the tariff-quota (up to 1,000 tons) are generally charged 10%. Imports entering outside the tariff-quota are charged 80%.

Under the Uruguay Round agreement, the 1,000 tons would be based on actual imports in the base period or an agreed “minimum access” formula.

Amber box subsidies

The main complaint about policies, which support domestic prices or subsidize production in some other way, is that they encourage over-production. This squeezes out imports or leads to export subsidies and low-priced dumping on world markets. The Agriculture Agreement distinguishes between support programmes...
that stimulate production directly and those that are considered to have no direct
effect.

Domestic policies that do have a direct effect on production and trade have to be
cut back. WTO members calculated how much support of this kind they were
providing per year for the agricultural sector (using calculations known as “total
aggregate measurement of support” or “Total AMS”) in the base years of 1986–88.
Developed countries agreed to reduce these figures by 20% over six years starting
in 1995. Developing countries agreed to make 13% cuts over 10 years. Least-
developed countries do not need to make any cuts. This category of domestic
support is sometimes called the “amber box”, a reference to the amber colour of
traffic lights, which means “slow down”.

Green box subsidies

Measures with minimal impact on trade can be used freely, as they are categorized
to be in a “green box” (“green” as in traffic lights). They include government
services such as research, disease control, infrastructure and food security. They
also include payments made directly to farmers that do not stimulate production,
such as certain forms of direct income support, assistance to help farmers
restructure agriculture, and direct payments under environmental and regional
assistance programmes.27

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27 Jayanta Bagchi, “Trade in Goods”, World Trade Organisation- An Indian Perspective, Eastern
Blue box subsidies

Also permitted, are certain direct payments to farmers where the farmers are required to limit production, sometimes called "blue box" measures, certain government assistance programmes to encourage agricultural and rural development in developing countries, and other support on a small scale ("de minimis") when compared with the total value of the product or products supported (5% or less in the case of developed countries and 10% or less for developing countries).

iii. Export subsidies

The Agreement on Agriculture prohibits export subsidies on agricultural products unless the subsidies are specified in a member's lists of commitments. Where they are listed, the agreement requires WTO members to cut both the amount of money they spend on export subsidies and the quantities of exports that receive subsidies. Taking averages for 1986–90 as the base level, developed countries agreed to cut the value of export subsidies by 36% over the six years starting in 1995 and developing countries agreed to cut the value of export subsidies by 24% over 10 years. Developed countries also agreed to reduce the quantities of subsidized exports by 21% over the six years and developing countries agreed to reduce the quantities of subsidized exports by 14% over 10 years. Least-developed countries do not need to make any cuts. During the six-year implementation period, developing countries were allowed under certain conditions to use subsidies to reduce the costs of marketing and transporting exports.
b) Agreement on Sanitary and Phytosanitary Measures (SPS)

The SPS is a separate agreement, which sets out the basic rules on food safety and animal and plant health standards. It allows countries to set their own standards, but the regulations must be based on science. They should be applied only to the extent necessary to protect human, animal or plant life or health. They should not arbitrarily or unjustifiably discriminate between countries where identical or similar conditions prevail. 28

Member countries are encouraged to use international standards, guidelines and recommendations where they exist. However, members may use measures, which result in higher standards if there is scientific justification. They can also set higher standards based on appropriate assessment of risks so long as the approach is consistent and not arbitrary. They can to some extent apply the "precautionary principle", a kind of "safety first" approach to deal with scientific uncertainty. The SPS Agreement allows temporary "precautionary" measures.

If an exporting country can demonstrate that the measures it applies to its exports achieve the same level of health protection as in the importing country, then the importing country is expected to accept the exporting country’s standards and methods.

Governments must provide advance notice of new or changed sanitary and phytosanitary regulations and establish a national enquiry point to provide information. The agreement complements that on technical barriers to trade.

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c) Agreement on Technical Barriers to Trade (TBT)

The TBT agreement tries to ensure that regulations, standards, testing and certification procedures do not create unnecessary obstacles. The agreement recognizes countries’ rights to adopt the standards they consider appropriate, for example, for human, animal or plant life or health, for the protection of the environment or to meet other consumer interests. Moreover, members are not prevented from taking measures necessary to ensure their standards are met. In order to prevent too much diversity, the agreement encourages countries to use international standards where these are appropriate, but it does not require them to change their levels of protection as a result.

It discourages any methods that would give domestically produced goods an unfair advantage. The agreement also encourages countries to recognize each other’s testing procedures. Thus a product can be assessed to see if it meets the importing country’s standards through testing in the country where it is made. Manufacturers and exporters need to know what the latest standards are in their prospective markets. To help ensure that this information is made available conveniently, all WTO member governments are required to establish national enquiry points.
d) Agreement on Anti-Dumping

The key to the smooth flow of trade in goods lies in binding tariffs and applying them equally to all trading partners (most-favoured-nation treatment, or MFN). The three main issues addressed under anti-dumping are

i. Actions taken against dumping (selling at an unfairly low price)

ii. Subsidies and special “countervailing” duties to offset the subsidies

iii. Emergency measures to limit imports temporarily, designed to “safeguard” domestic industries.

If a company exports a product at a price lower than the price it normally charges on its own home market, it is said to be “dumping” the product. Is this unfair competition? Opinions differ, but many governments take action against dumping in order to defend their domestic industries. The WTO agreement does not pass judgment. Its focus is on how governments can or cannot react to dumping. It disciplines anti-dumping actions, and it is often called the “Agreement on Anti-Dumping”.

Broadly speaking the WTO agreement allows governments to act against dumping where there is genuine, i.e. “material”, injury to the competing domestic industry. In order to do that the government has to be able to show that dumping is taking place, calculate the extent of dumping, i.e. how much lower the export price is compared to the exporter’s home market price (more specifically he country of origin) and show that the dumping is causing injury or threatening to do so. Typically anti-dumping action means charging extra import duty on the particular product from the particular exporting country in order to bring its price closer to the
There are many different ways of calculating whether a particular product is being dumped heavily or only lightly. The agreement narrows down the range of possible options. It provides three methods to calculate a product's "normal value". The main one is based on the price in the exporter's domestic market. When this cannot be used, two alternatives are available viz.

i. The price charged by the exporter in another country, or

ii. A calculation based on the combination of the exporter's production costs, other expenses and normal profit margins.

The agreement also specifies how a fair comparison can be made between the export price and what would be a normal price.

Anti-dumping measures can only be applied if the dumping is hurting the industry in the importing country. Anti-dumping investigations are to end immediately in cases where the authorities determine that the margin of dumping is insignificantly small (defined as less than 2% of the export price of the product). Some other conditions are also set, for example, the investigations also have to end if the volume of dumped imports is negligible (i.e. if the volume from one country is less than 3% of total imports of that product, although investigations can proceed if several countries, each supplying less than 3% of the imports, together account for 7% or more of total imports).
‘AD-CVD’

People sometimes refer to the two together as “AD-CVD” (Anti dumping-Countervailing duty) but there are fundamental differences between them.

Dumping and subsidies, together with anti-dumping (AD) measures and countervailing duties (CVD), share a number of similarities.

The reaction to dumping and subsidies is often a special offsetting import tax. In the case of a subsidy the reaction is in the form of imposing the countervailing duty. This is charged on products from specific countries and therefore it breaks the GATT principles of binding a tariff and treating trading partners equally (MFN).

The agreements provide an escape clause, but they both also say that before imposing a duty, the importing country must conduct a detailed investigation that shows properly that domestic industry is hurt.

Dumping is an action by a company. With subsidies, it is the government or a government agency that acts, either by paying out subsidies directly or by requiring companies to subsidize certain customers. The WTO does not deal with companies and cannot regulate companies’ actions such as dumping. Therefore the Anti-Dumping Agreement only concerns the actions governments may take against dumping. With subsidies, governments act on both sides viz. they subsidize and they act against each other’s subsidies. Therefore the subsidies agreement disciplines both the subsidies and the reactions.
e) Agreement on Subsidies and Countervailing Measures

This agreement addresses two issues viz. first, it disciplines the use of subsidies and second, it regulates the actions countries can take to counter the effects of subsidies. The agreement applies to agricultural goods as well as industrial products. The agreement defines two categories of subsidies as given below:

i. **Prohibited subsidies**: subsidies that require recipients to meet certain export targets, or to use domestic goods instead of imported goods. They are prohibited because they are specifically designed to distort international trade, and are therefore likely to hurt other countries' trade. They can be challenged in the WTO dispute settlement procedure. If the dispute settlement procedure confirms that the subsidy is prohibited, it must be withdrawn immediately. Otherwise, the complaining country can take counter measures. If domestic producers are hurt by imports of subsidized products, countervailing duty can be imposed.

ii. **Actionable subsidies**: In this category the complaining country has to show that the subsidy has an adverse effect on its interests. Otherwise the subsidy is permitted. The agreement defines three types of damage they can cause. One country's subsidies can hurt a domestic industry in an importing country. They can hurt rival exporters from another country when the two compete in third markets. The domestic subsidies in one country can hurt exporters trying to compete in the subsidizing country's domestic market. If the Dispute Settlement Body rules that the subsidy does have an adverse effect, the subsidy must be withdrawn.
f) Agreement on Safeguards

A WTO member may restrict imports of a product temporarily i.e. take “safeguard” actions if its domestic industry is injured or threatened with injury caused by a surge in imports. However, they were infrequently used, some governments preferring to protect their domestic industries through “grey area” measures i.e. through bilateral negotiations outside GATT’s auspices, they persuaded exporting countries to restrain exports “voluntarily” or to agree to other means of sharing markets.

This WTO agreement prohibits “grey-area” measures and it sets time limits (a “sunset clause”) on all safeguard actions. The agreement says members must not seek, take or maintain any voluntary export restraints, orderly marketing arrangements or any other similar measures on the export or the import side. An import “surge” justifying safeguard action can be a real increase in imports i.e. an absolute increase or it can be an increase in the imports’ share of a shrinking market, even if the import quantity has not increased i.e. relative increase.

A safeguard measure should not last more than four years, although this can be extended up to eight years, subject to a determination by competent national authorities that the measure is needed and that there is evidence that the industry is adjusting. An importing country can only apply a safeguard measure to a product from a developing country if the developing country is supplying more than 3% of the imports of that product, or if developing country members with less than 3% import share collectively account for more than 9% of total imports of the product concerned.
g) Non-tariff barriers

The non-tariff barriers to trade are as listed below:

i. Import licensing
ii. Rules for the valuation of goods at customs
iii. Pre-shipment inspection
iv. Rules of origin
v. Investment measures

i. Import licensing: Agreement on Import Licensing Procedures

The Agreement on Import Licensing Procedures says import licensing should be simple, transparent and predictable. The agreement says the agencies handling licensing should not normally take more than 30 days to deal with an application and 60 days when all applications are considered at the same time. This ensures that the administrative work does not in itself restrict or distort imports.

ii. Rules for the valuation of goods at customs

The WTO agreement on customs valuation aims for a fair, uniform and neutral system for the valuation of goods for customs purposes. The agreement provides a set of valuation rules, expanding and giving greater precision to the provisions on customs valuation in the original GATT. The customs administration has the right to request further information in cases where they have reason to doubt the accuracy of the declared value of imported goods.
iii. Pre-shipment inspection

Preshipment inspection is the practice of employing specialized private companies to check shipment details, essentially price, quantity and quality of goods ordered overseas. These specialized private companies are used by governments of developing countries as they do not have the administrative infrastructure to deal with these issues. The purpose is to safeguard national financial interests such as preventing capital flight, commercial fraud, and customs duty evasion and to compensate for inadequacies in administrative infrastructures. The obligations placed on governments which use preshipment inspections include non-discrimination, transparency, protection of confidential business information, avoiding unreasonable delay, the use of specific guidelines for conducting price verification and avoiding conflicts of interest by the inspection agencies. The obligations of exporting members towards countries using preshipment inspection include non-discrimination in the application of domestic laws and regulations, prompt publication of those laws and regulations and the provision of technical assistance where requested. The agreement establishes an independent review procedure. The International Federation of Inspection Agencies (IFIA), representing inspection agencies, and the International Chamber of Commerce (ICC), representing exporters, administer this review procedure jointly. Its purpose is to resolve disputes between an exporter and an inspection agency.
iv. Rules of origin

"Rules of origin" are the criteria used to define where a product was made. They are an essential part of trade rules because a number of policies discriminate between exporting countries viz. quotas, preferential tariffs, anti-dumping actions, countervailing duty (charged to counter export subsidies) and more. Rules of origin are also used to compile trade statistics, and for "made in ..." labels that are attached to products. This is complicated by globalization and the way a product can be processed in several countries before it is ready for the market.

v. Investment measures

The **Trade-Related Investment Measures (TRIMs) Agreement** applies only to measures that affect trade in goods. It recognizes that certain measures can restrict and distort trade and states that no member shall apply any measure that discriminates against foreigners or foreign products, i.e. it should not violate the "national treatment" principle of GATT. It also outlaws investment measures that lead to restrictions in quantities. The list of TRIMs, which are inconsistent with the GATT articles, includes measures such as local content requirements and trade balancing requirements. The local content requirements are those, which require particular levels of local procurement by an enterprise and the trade balancing requirements are those that limit a company's imports or set targets for the company to export.

This discussion is now part of the Doha Development Agenda.
2.6 Dispute Settling Mechanism at WTO

Dispute settlement is WTO’s unique contribution to the stability of the global economy. It is based on the following principles viz. equitable, fast, effective, and mutually acceptable. WTO members have agreed that they will use the multilateral system of settling disputes instead of taking action unilaterally.

The procedure of settling disputes

Settling disputes is the responsibility of Dispute Settlement Body (DSB), which is the General Council in another guise, which consists of all WTO members.

The following are the stages involved in the dispute settlement process:

First stage: consultation (up to 60 days). Before taking any other actions the countries in dispute have to talk to each other to see if they can settle their differences by themselves.

Second stage: the panel (up to 45 days for a panel to be appointed, plus 6 months for the panel to conclude). If consultations fail, the complaining country can ask for a panel to be appointed. The country “in the dock” can block the creation of a panel once, but when the Dispute Settlement Body meets for a second time, the appointment can no longer be blocked, unless there is a consensus against appointing the panel. The panel’s final report should be given to the parties to the dispute within six months. In cases of urgency, including those concerning perishable goods, the deadline is shortened to three months.29

2.7 Singapore Ministerial Conference: Investment, competition and procurement

The ministers from WTO member countries decided at the 1996 Singapore Ministerial Conference to set up three new working groups: on trade and investment, on competition policy and on transparency in government procurement. They also instructed the WTO Goods Council to look at possible ways of simplifying trade procedures, an issue sometimes known as “trade facilitation”. Because the Singapore conference kicked off work in these four subjects, they are sometimes called as the “Singapore issues”.