

Chapter 2

WTO: AN OVERVIEW – A BRIEF HISTORY OF WTO

GATT: A Historical Perspective

The General Agreement on Tariffs and Trade (GATT) was an international body which remained in existence for a period of forty-six years. It was negotiated in 1947 and came into force on January 1, 1948. GATT started as a general agreement for trade concessions among 23 nations, including India, and its membership increased to 117 countries as on December 31, 1994 – the day it ceased to exist. The Geneva-based 117 nation GATT had two thirds of its members belonging to developing nations.

GATT was neither an organisation nor a court of justice which could enforce its decisions. It was simply a multinational treaty, subscribed by nations covering 85 per cent of the world trade. It provided a forum to discuss trade problems, faced by member-countries, known as contracting parties.

It had been almost half a century since the GATT came into being. During this period GATT established itself as a prominent feature in the international landscape and made its presence felt in the world of trade and commerce. Through successive rounds of negotiations, the barriers obstructing the free flow of trade were slowly and steadily lowered. A whole corpus of jurisprudence on Trade matters evolved under the aegis of GATT.

The Uruguay Round Agreement signed in Marrakesh to establish the World Trade Organization (WTO) ensures change within continuity:

Continuity in the sense that the philosophy, culture and specificity of GATT will not evaporate or vanish, but instead will enrich the new spirit of the WTO; and change, because the deep transformations experienced by our world in terms of technological breakthroughs, globalisation and liberalisation necessitated this change.

Keeping in view the aforesaid facts, an attempt is made to trace a brief historical development of events ever since the birth of GATT till the conclusion of the Uruguay Round in Marrakesh on the 15th December 1993 which led to the creation of the WTO on January 1, 1995.

BIRTH OF GATT

General Agreement on Tariffs and Trade (GATT) was essentially a trade agreement among 120-odd nations which constituted contracting parties to the GATT and India was also one of them. It was one of the institutions which took concrete form out of the deliberations of the Bretton Woods Conference, held in July 1944. The Bretton Woods agreement was directed towards increased international co-operation in money finance and trade. As such three separate institutions were established, namely, (i) IMF, (ii) IBRD, and (iii) GATT.

GATT was a post-war development; which was created out of the efforts made by the Allied Powers during the World War II to create new international institutions that would help promote more liberal system of international trade and payments.

The Great Depression of the thirties had promoted the governments of many countries to erect various kinds of protective trade barriers, high tariff protection, quota restrictions on imports, exchange controls and the like. These restrictive trade practices had severely hampered the growth of

international trade in the 1930s. IMF was designed to provide a multilateral payments system and to help member countries in overcoming short-term balance of payments deficits without recourse to import restrictions. Side by side with the IMF, plans were also put forward for the negotiations of a world trade charter incorporating an international commercial code.

It was in November 1945 that the U.S. Deptt of State published its proposals for expansion of world trade and employment. These proposals set out general principles of a multilateral trading code, together with suggestions for setting up of an International Trade Organisation (ITO). A conference was invited in London in 1946 to consider these proposals.

While the proposals for setting up of the ITO had met with failure, the tariff concession resulting from the tariff negotiating conference were embodied in a multilateral contract called the General Agreement on Tariffs and Trade (GATT). The contract was signed on October 30, 1947 at Geneva and became effective from January 1, 1948. One of its most important effects was to bring about a substantial reduction in the U.S. tariffs which had risen to high levels in the 1930s. Consequently, the GATT became an instrument that helped bring about the economic recovery of Western Europe.

GATT, which had originally been intended as a purely temporary arrangement, had become a permanent international arrangement body till ceased to exist on 31 December, 1995 whose rules had been accepted by most of the leading trading countries.

FUNDAMENTAL PRINCIPLES OF GATT

GATT was a treaty that was collectively administered by the contracting parties. Representatives of the contracting parties used to meet

from time to time to discuss matters of common interest and to give effect to the provisions of the Agreement requiring joint action.

The text of the GATT Agreement was complicated, but the following were regarded as its four fundamental principles:

- (i) Trade should be carried on the non-discriminatory basis.
- (ii) Domestic industry should only be protected by means of customs tariffs and not through other commercial measures.
- (iii) The aims of consultations should be the avoidance of damage to members interests.
- (iv) GATT served 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 were based on a few fundamental principles contained in the code of International Trade Conduct:

1. To follow 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 living standard, ensure full employment through a steadily growing effective demand 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.

First Round

The First Round was held at Geneva (Switzerland) in 1947. The 23 countries that found the GATT exchanged tariffs cuts for 45,000 products worth dollar 10 billion of trade on an annual basis.

Second Round

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

Third Round

The Third Round was held at Torquay (Britain) in 1950-51. The 38 countries involved adopted 8,700 tariff reduction.

Fourth Round

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

Fifth Round

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

Sixth Round

The Six Round, also known as the Kennedy Round, was held at Geneva in 1964-67. More than 50 countries, accounting for 75 per cent of world trade, cut tariffs for industrial goods worth \$ 40 billion by upto 50 per cent. They also signed agreements on grains and chemical products, and a code on anti-dumping actions.

Seventh Round

The Seventh Round, known as the Tokyo Round, opened in 1973 in Tokyo and ended in 1979 in Geneva. The 99 participants cut customs duties by 20 to 30 per cent for goods worth a traded value of \$ 300 billion. The declaration set out of far reaching programme for the negotiators in six areas; tariff reductions; reduction or elimination of non-tariff barriers; coordinated reduction of all trade barriers in selected sectors; discussion on the multilateral safeguard systems; trade liberalisation in the agricultural sector taking into account the special characteristics and problems in this sector, and special treatment of topical products.

Eighth Round

The Eighth Round of GATT negotiations which began at Punta Del Esta in Uruguay in September 1986 ought to have been concluded by the end of 1990. But at the ministerial meeting in Brussels in December 1990,

an impasse was reached over the area of agriculture and the talks broke down. The task were restarted in February 1991 and continued till August 1991. On 20 December 1991, Arthur Dunkel, the Director General of GATT, released the Draft Final Act embodying the results of the Uruguay Round of Multilateral Trade Negotiations which is known as the Dunkel Draft Text (DDT) or the Dunkel Package.

Originally, there were the following 15 areas relating to liberalisation of trade in goods in the Uruguay Round: (i) Tariffs; (ii) Non-tariff barriers; (iii) Tropical products; (iv) Natural resource-based products; (v) Textile and clothing; (vi) Agriculture; (vii) GATT articles; (viii) Safeguards; (ix) Multilateral trade agreements and arrangements; (x) subsidies and countervailing measures; (xi) Dispute settlement; (xii) Trade related intellectual property rights (TRIPS); (xiii) Trade-related investment measures (TRIMs); (xiv) Functioning of GATT systems; and (xv) General agreement on trade in services (GATS).

After the talks broke down in December 1990, the Trade Negotiations Committee of the GATT while deciding to restart the negotiations in February 1991 reshuffled the original 15 areas into seven new areas in order to focus the discussion better. These were: (i) Agriculture; (ii) Textile and clothing; (iii) GATS; (iv) Rule-making; (v) TRIMS and TRIPS; (vi) Dispute settlement; and (viii) Market access.

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 Organization, securing for all times fair norms and forums for Multilateral Trade and Commerce among the Nations of the world.

The GATT document presented as the “Final Act Embodying the Results of the Uruguay Round of Negotiations” is now formally signed by India as a member who was a signatory at Uruguay and Marrakesh.

GATT and Developing Countries

Before the Kennedy Round (1964-67), developing countries gained very little from the GATT except that they could use quantitative restrictions to correct disequilibrium in balance of payments and benefited from tariff reduction by developed countries. But the principle of reciprocity for trade concessions went against the developing countries, because they were unable to provide equivalent benefits to the developed countries. For instance, tariffs on total manufactured imports by developed countries averaged 11 percent but were 17 per cent on those from developing countries. Moreover, GATT did not take any initiative on trade barriers on agricultural and tropical products of developing countries.

The concept of “special and preferential” treatment for developing countries was formally introduced into the General Agreement in 1957. Under it negotiations would take in account the needs of LDCs for a more flexible use of tariff protection to assist their economic development and the special needs of these countries to maintain tariffs for revenue purpose. On the recommendations of the Haberler Report, the GATT started an action programme in 1958 which recommended that the developed countries should reduce taxation and trade barriers on industrial and primary products of developing countries. In 1963, the contracting parties agreed on a more flexible attitude towards LDCs. Accordingly, tariffs on some tropical products like tea and timber were reduced or eliminated by developed countries.

In 1965, a new Part IV on Trade and Development was incorporated into the General Agreement dealing with the principle of non-reciprocity for developing countries. It states that “the developed contracting parties do not expect reciprocity or commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of less developed contracting parties should not be expected in the course of trade negotiations, to make contribution which are inconsistent with their individual development, financial and trade needs, taking into consideration past trade developments.”

The Kennedy Round (1964-67) bestowed some benefits on developing countries when thirty-seven developed countries reduced tariffs on manufactured goods. But little attention was paid to the problems of developing countries.

In 1970, the Generalized System of Preferences (GSP) was introduced which permitted developed countries to grant unilateral tariff preferences to developing countries. In June 1971, the GATT waived the MFN treatment obligation for developed countries for a period of ten years to the extent needed to grant preferential treatment under the GSP which has since been extended further.

It was, however, in the Tokyo Round (1973-79) that a number of agreements on subsidies and countervailing duties covering agricultural, fisheries and forestry products; on customs valuation; on government procurement; on technical barriers to trade; on important licensing; on dairy products; on bovine meat; and on civil aircraft were reached. It was a triumph for developing countries for these agreements contained special provisions for developing countries. The Tokyo Round also led to trade

concessions to the exports of raw, processed, and semi-processed tropical products of developing countries by developed countries.

Moreover, GATT rules also banned export subsidies on manufactured products by developed countries. On the other hand, they allowed export subsidies for economic development and industrialisation by developing countries.

Despite special and preferential treatment for developing countries provided in GATT rules, they were being discriminated under the “escape clauses” and “safeguard” rules of the GATT. Moreover, the multiplication of trade restrictions outside the GATT rules, such as “Voluntary export restraints”, and “orderly marketing agreements” went against the interest of developing countries and undermined the utility of the General Agreement.

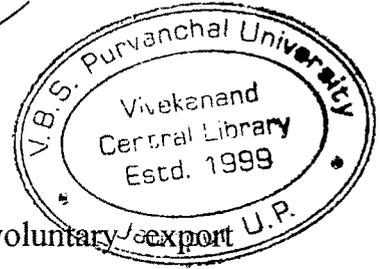
Criticisms of GATT

There had been large scale evasion of GATT rules by contracting parties 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 GATT rules hardly applied. Almost every developed country followed such agricultural trade policies which were inconsistent with GATT rules. It was only at the Kennedy Round and the Tokyo Round that a few agreements were arrived at relating to agricultural and dairy products. But trade liberalisation for agricultural products had been much less than for manufacturers. Producers of agricultural products had been resorting to domestic support policies leading to surplus production that could be exported only with the help of heavy subsidies.

No doubt, developed countries had removed the majority of tariff barriers, yet they had been reluctant to abolish others. In fact, they had

6242



devised new trade restrictions under the grab of “voluntary export restraints”, “low-cost suppliers”, “market disruption”, etc. which were outside the GATT rules. They were being applied against developing and state trading countries and Japan. For instance, such restrictions affected over 50 per cent of the French imports and 45 per cent of the United States.

The role of GATT was being undermined by concluding bilateral, discriminatory and restrictive arrangements outside the GATT rules. The EEC and the US had placed many import restrictions on innumerable products 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 on December 15, 1993, over 100 MFA type bilateral agreements were in force in the world which restricted exports of developing countries to the developed ones.

The increasing use of subsidies had been another important factor in side-tracking the GATT. This is because GATTs rules on subsidies were not explicit. The GATT rules permitted domestic subsidies but they led to retaliation if they damaged the trade interests of other countries. The result was a further worsening of open trade. That was actually happening.

The “safeguard” rules under Article XIX of the GATT allowed the contracting parties to grant protection in case of need, such as injurious dumped or subsidised imports, or in severe balance of payments difficulties. But all temporary restrictions permitted under the escape clause had become permanent features of the world trading system.

The GATT rules in Article XXIV which permitted the formation of customs unions and free-trade areas had been distorted and abused. These rules left many ambiguities which had seriously weakened the GATT. The

benefits of MFN rule had failed to spread uniformity among the contracting parties.

The GATT being a mandatory body did not possess any mechanism to get its rules implemented by contracting parties. The procedures for dispute settlement consisted of a panel of three to five independent experts whose recommendations had no 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 percent of world trade was conducted outside the GATT rules.

World Trade Organisation: Structure and Functions

The World Trade Organisation (WTO) came into effect on January 1, 1995 with the support of at least 85 founding members, including India. It is now the third economic pillar of worldwide dimensions along with the International Monetary Fund (IMF) and the World Bank.

The WTO replaced the General Agreement on Tariffs and Trade (GATT) – one of the institutions, namely, IMF, IBRD and GATT which took concrete forms out of deliberations of the Bretton Woods Conference, held in July 1944. It was established by the Agreement signed by 125 participant nations on April 15, 1994 at Marrakesh (Morocco).

WTO vis-a-vis GATT

The WTO is a distinctively as well as qualitatively an improvement upon the GATT. It is different from the GATT in following respects:

- (i) 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.
- (ii) It has a far wider scope than its predecessor, bringing into the multilateral trading system, for the first time, trade in service, intellectual property protection, and investment.
- (iii) It is a full-fledged international organization in its own right while GATT was basically a provisional treaty serviced by an ad hoc secretariat.
- (iv) It administers a 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.
- (v) It contains a much improved version of the original GATT rules plus a lot more. The new version, called GATT 1994, clarifies and strengthens the original GATT rules for trade in goods.
- (vi) It reverses 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 – so called voluntary export restraints – phased out.

Functions of The WTO

The following are the functions of the WTO

- (i) Facilitate the management of the Multilateral Trade Agreements (MTAs) and the Plurilateral Trade Agreements (PTAs) for the fulfilment of their obligations.

- (ii) All Multilateral Trade Relations concerning the above Agreements are negotiated by the Members in this forum.
- (iii) The WTO also facilitates implementation of the results of the negotiations as decided by the Ministerial Conference.
- (iv) It administers the Understanding on Rules and Procedures Governing the Settlement of Disputes, forming part of the Agreements (MTAs and PTAs).
- (v) The WTO is responsible for administration of the Trade Policy Review Mechanisms (TPRM) forming 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.

REFERENCES

1. Dubey, Muchkund. 'Political Economy of Uruguay Round of Trade Negotiations' Mainstream, May 30, 1992.
2. GATT Agreements: Final Text of Uruguay Round 1994, Academy of Business Studies, New Delhi.
3. 'Global Trade: WTO's Assessment of Recent Trends'; The Times of India, Bombay, Nov 30, 1995.
4. WTO: 'International Trade Trends and Statistics', 1995
5. WTO Focus, Newsletter (Various Issues).
6. Debroy, Bibek: Cake's therefore the Eating, the Economic Times, December 27, 1993.
7. Jha, Prem Shankar: Dunkel Draft: The Brighter Side, the Economic Times, Dec. 25, 1994.
8. Gill, S.S. and Brar, J.S. : Global Markets and Competitiveness of Indian Agriculture, E.P.W., August 10, 1996.
9. Panchamukhi, V.R. : World Trading System: Challenges for Rural India, T.N. Rai Memorial Lecture at Manipal, January, 1996, published in Pigmy Economic Review, May-July, 1996.
10. The Economic Times, New Delhi, 2 Jan 1995.
11. WTO, Focus, Newsletter N. 7, December 1995.