CHAPTER II

ORIGIN AND HISTORY OF GATT/WTO
AND ITS ASSOCIATES (IMF & WORLD BANK)

Introduction

The idea of founding an international organization to develop and co-ordinate international trade was put forward in 1944 at a conference on economic matters held in Bretton Woods, New Hampshire, but the details were left for later. After the founding of the United Nations in 1945, multilateral trade negotiations were conducted within the framework of the United Nations. Economic and Social Council adopted in 1946 a resolution in favour of forming an International Trade Organisation (I.T.O).

One of the major problems faced by Governments of nations all over the world is the protection of their domestic industry from the competition of the foreign manufactures. To meet the challenge and to protect domestic industry, governments use two devises of which one is the tariff barrier against imported goods and the other is subsidies to goods of the domestic industries.

The proponents of free world trade market demanded the elimination/minimisation of the tariff barriers and subsidies so as to promote a free world trade market.

Several negotiations, bilateral as well as multilateral, have been held with this objective among countries of the world from time to time.

At the end, a General Agreement on Tariff and Trade (GATT) was signed by 23 Member countries, as a result of the long chain of negotiation. This GATT agreement on tariff and trade was a temporary legal agreement and not a proper organisation.

After the World War II an attempt was made collectively by several nations to build a multilateral institution to facilitate the conduct of international institutions on a constructive and periodical basis. Their efforts led to San Francisco Conference held in 1945 which was attended by 51 nations. At this conference, the United Nations was made as the linchpin of the entire system. In its charter, the UN was given a holistic, prominent and overarching role in all areas of international cooperation. It was given a constructive role to global problems in various areas which include political, security, social, economic, cultural, and humanitarian issues. Article 57 of the UN Charter provides that the various specialized agencies established by inter-governmental agreements shall be brought into relationship with the United Nations.

At present there are eighteen specialized agencies working under

29 The Hindu dated 18th October 1994.

30 Article 63(1) of UN Charter provides that the economic and social council may enter into agreements with any of the agencies referred to the Article 57, defining the terms on which the agency concerned shall be brought into relationship with the UNs. Such agreements shall be subjected to approval by the General Assembly.
the UN, of which those meant for international trade development are the International Monetary Fund (IMF), International Bank for Reconstruction and Development (IBRD), popularly known as World Bank. Similarly International Trade Organisation (ITO) to deal with international trade was sought to be set up. The Great Depression of 1930s, and the wide-spread trauma in its wake, were attributed to the restrictive trade and exchange polices of that era. It was clear that post war economic policy would require progress on three broad fronts: exchange policy, trade policy, and investment.

Discussions were held mainly between United States and United Kingdom and Canada during the war to elaborate the major elements of a new international trading system. The US in 1945 called for the convening of United Nations Conference for the purpose of negotiating an international trade charter and for the establishment of an International Trade Organisation. In February 1946, the United Nation’s Economic and Social Council (ECOSOC) at its first session established a preparatory committee of eighteen (18) countries to prepare the ground work for a United Nations Conference on trade and employment. These eighteen countries were broadly representative of various regions of the world.31

Over the next several months, the US in consultation with U.K and Canada, elaborated its summary of December 1945 proposals into a detailed draft of trade charter. This suggested charter was adopted as a basis for discussion for its first session.

31 MB Rou and Mansula Guru. WTO and International Trade Evaluation of GATT, p.27.
held in London during October-November of 1946.\textsuperscript{32}

There were two major tasks to be carried out at the second session. First was the completion of the draft of trade charter for submission to the UN Conference on Trade and Employment scheduled for December 1947 in Havana, and the second, a series of detailed negotiations among the principal countries of the preparatory committee to eliminate or reduce tariffs and tariff preferences.\textsuperscript{33}

\section*{2.1 Formation of the GATT}

Prior to World War II, there were restrictions imposed by several countries on international trade with a view to protecting their own industries. At the close of World War II, these countries realized that world trade had declined considerably and the impact of decline in world trade showed an adverse effect on all countries in the world. It was therefore, felt that the artificial restrictions imposed on international trade be removed. Meanwhile several negotiations had taken place between each other’s principal supplier countries. Under the ‘most favoured nation rule’ all the concessions made in the course of bilateral negotiations were to be extended to all participating countries. The tariff negotiations between many pairs of countries were completed by October 1947 and provided for major reductions in tariffs and preferences and other trade restrictions.

These tariff schedules together with those Articles of the draft charter, that were required to protect the integrity of the trade

\textsuperscript{32} Ibid, p.27, 28.

\textsuperscript{33} Ibid, p.28.
concessions were combined in an instrument entitled the “General Agreement on Tariffs and Trade” (GATT).34

The Articles drawn from the charter were the traditional provisions common to most bilateral trade agreements covering such matters as valuation for duty, national treatment on internal taxation, quantitative restrictions, subsidies, antidumping, countervailing duties and state trading. The GATT did not include other provisions in the draft charter such as employment, investment, restrictive business practices, commodity agreements or the organizational provisions that related to the proposed International Trade Organisation.35

The final Act establishing GATT was signed by all twenty three (23) participants of the preparatory committee. It came into force on January 1st, 1948.

2.2 Fate of ITO Proposal

While the GATT Agreement was thus concluded between negotiating parties, the original idea to set up an International Trade Organisation was simultaneously discussed. The negotiations were largely a US-UK affair carried on under Article VII of the US-UK lend lease Agreement. The discussions were informal and the approval of the government for each position was not obtained by the policy experts. Experts found themselves in agreement about substantive issues like,

34 Ibid, page 29.

subsidies, export taxes, discrimination, tariff reductions quantitative restrictions etc. The result was they agreed that quantitative restrictions were to be prohibited, the only exception being the balance of payments emergency. Export taxes and subsidies were to be eliminated. Discrimination had to be outlawed and tariffs to be substantially reduced. State Trading enterprises were to be encouraged to behave like private traders. It would be observed that these were the main provisions that came to be drafted into the ITO charter and into the GATT agreement. The ITO charter embraced other matters, such as employment policy, economic development, commodity agreements, and restrictive business practices.36

In December 1945 the US and U.K. governments resumed formal conversations, and the two governments produced a detailed set of proposals on which the negotiations for an International Trade organisation could be launched. The proposals were accepted by the UN Economic and Social Council in early 1946. A “UN conference on Trade and Employment” was convened and a preparatory committee of 18 governments was appointed to prepare a draft charter for consideration by the plenary conference.37

The formal negotiation of the ITO Charter took place between October 1946 and March 1948. The preparatory committee met in London and, working on the suggested Charter submitted by US, produced a first draft of its own. A technical drafting


37 See US Department of State publications No. 2598; Commercial policy Census No. 93 (1946), P.III, One of the 18 (The Soviet Union) did not participate.
committee then met in New York in January-February 1947 to produce a second draft. The third and the final drafts were prepared by preparatory committee in April-August 1947 for submission to the plenary conference to be held in Geneva. In that conference the participants proposed to create GATT.

The plenary conference opened at Havana on November 18, 1947. It was attended by fifty four countries. The final act establishing the text of the ITO charter was signed on March 24, 1948.38

The Havana charter is not a perfect model for free trade in the world. It has exceptions and escape clauses. But it is of course the best that could be achieved in those circumstances.

2.3 The ITO set-up, an unborn child

The ITO could not be established, as the US Congress never voted on it. The US Congress approval was required to authorize the US Government to accept the Havana World Trade Charter and to participate in the International Trade Organisation. The whole project failed because of the US dominant position.

Immediately, upon the signing of the Havana Final Act, the contracting parties to the GATT held their first session and agreed to amend the relevant GATT Articles to reflect the numerous changes that were made to the Charter at the Havana conference. But GATT was only supported by the protocol of provisional application, with no provision to establish a fulfledged organization with only short term support and status

38 The text is reprinted as UN. Doc; 16.TO1/1/4 (1948).
in the UN system. But still it survived and continuously worked for the past 47 years, until the task was taken over by the World Trade Organisation (W.T.O.). On 1\textsuperscript{st} January 1995, as the principal institution governing international trade relations. Now we shall turn our attention to the functioning of GATT.

### 2.4 General Agreement on Tariff and Trade (GATT)

GATT came into being in 1948 with a membership of twenty three industrial countries who signed the agreement. Each signatory of the GATT is known as contracting party (though loosely called a member), as legally GATT is not an organization. Its membership increased to 90 by the mid 1980s. That accounted for over 80\% of the world trade. Besides, 30 countries applied GATT rules in their international trade. In other words, about 120 countries adopted GATT trading rules. In 1995, when W.T.O started functioning, the membership of the GATT was 128. It shows that GATT seemed to be a permanent commitment rather than a provisional agreement it really was. The small secretariat associated with Havana Charter continued to act as secretariat to the GATT. Until the creation of WTO in 1995, GATT organized eight ‘rounds’ of negotiations from Havana to Uruguay. It reduced tariffs and strived to produce rules to govern international trade.
The table below shows the eight rounds of tariff conferences and their outcome.\(^{39}\)

**Table 2.1**

**Eight rounds of tariff conferences and their outcome**

<table>
<thead>
<tr>
<th>Date</th>
<th>Name</th>
<th>Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>1947</td>
<td>Geneva Round</td>
<td>45,000 tariff concessions representing half of the world trade</td>
</tr>
<tr>
<td>1949</td>
<td>Annecy Round</td>
<td>Modest tariff reductions</td>
</tr>
<tr>
<td>1950-51</td>
<td>Torquay Round</td>
<td>25% tariff reductions in relation to 1948 level</td>
</tr>
<tr>
<td>1955-56</td>
<td>Geneva Round</td>
<td>Modest tariff reductions</td>
</tr>
<tr>
<td>1961-62</td>
<td>Dillon Round</td>
<td>Modest tariff reductions</td>
</tr>
<tr>
<td>1963-67</td>
<td>Kennedy Round</td>
<td>Average Tariff reduction of 35% of the industrial products. Only modest reduction for agricultural products, antidumping code.</td>
</tr>
<tr>
<td>1973-79</td>
<td>Tokyo Round</td>
<td>Average tariff reductions of 34% for industrial products, non tariff trade barrier code.</td>
</tr>
<tr>
<td>1986-94</td>
<td>Uruguay Round</td>
<td>The final Act of the Uruguay Round transformed the GATT into a new fully fledged international organization called the World Trade Organisation (WTO) Outcome before Uruguay Round and after in the matter of bindings.(^{40}) Before After Developed Countries 78% 99% Developing Countries 21% 73% Transition Economics 73% 98%</td>
</tr>
</tbody>
</table>


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40 Ibid p.34
2.5 GATT Becomes an International Organisation

Failure to adopt the GATT, which was not intended to be an international organization, gradually filled this void. The contracting parties of the GATT held meetings every year, and new contracting parties were gradually added. The interim commission for the ITO became the GATT Secretariate. The GATT evolved into an international organization based in Geneva, taking as its “Charter”, the GATT practice, under the GATT and additional understandings and agreements.  

2.6 Objectives of GATT

The objective of the early GATT negotiating rounds was mainly to reduce tariffs. Non-tariff barriers later emerged as a vital concern as well. The objectives of the Tokyo and Uruguay Rounds were principally to reduce non-tariff barriers. The Uruguay round culminated in the creation of an immense new body of international law relating to trade. The basic texts of the WTO agreement executed 400 pages, and the Final Act signed in Marrakesh, Morocco on 15th April 1994 was over 26,000 pages.  

The Final Act of the Uruguay Round transformed the GATT into a new full-fledged international organization called the Word Trade Organisation (WTO).

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42 Ibid. p.6.
2.7 Creation of the WTO

The idea of creating a World Trade Organisation emerged slowly from various needs and suggestions. Even at the beginning of the Uruguay Round, negotiators and observers realized better institutional mechanisms and better system for resolving disputes. Many countries wanted to avoid the problems of Tokyo Round, which had resulted in significant new side agreements” that were binding only on those GATT contracting parties that accepted them (GATT a la cente).

Thus the Uruguay Round negotiators were receptive to the suggestions first made by Prof. Jackson, to use the Uruguay Round as an occasion to found a new “World Trade Organsiation”.\(^{43}\) The creation of such an organization could solve the problem of “GATT a la carte”. It would be necessary to accept all the Uruguay Round agreements to be a Member of the new World Trade Organisation. A chart showing the summary of the final texts of the Uruguay Round is shown on the next page.

The idea of a new World Trade Organisation was taken up in the functioning of GATT system (FOGS) negotiations. When the Draft final Act of the Uruguay Round was issued in 1991, it contained a proposal for a new “Multilateral Trade Organisation”. Working Group and negotiators did further work and the name was changed to the World Trade Organisation. Finally the negotiators decided that the WTO would come into being on 1\(^{st}\) January 1995.\(^{44}\)

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Figure 2.1
Summary of the Final Texts of the Uruguay Round

Structure of the Final Texts

Source: WTO Publication
The package of agreements that brought the WTO into being was opened for signature at Marakesh on 15th April 1994. The package consisted of multilateral trade agreements annexed to a single document, namely, the Marakesh Agreement establishing the World Trade Organisation (WTO agreement). Through this ingenious device, all agreements annexed to the WTO Agreement become binding on all Members as a single body of law.

2.8 The origin of the WTO

The origins of the WTO is in the General Agreement on Tariff and Trade of 1947 (GATT 1947). The study of these origins is relevant, because the decisions, procedures and customary practices of the GATT 1947 still guide the WTO in its actions. Article XVI.1 of the WTO Agreement states:

Except otherwise provided under this Agreement, or the multilateral trade agreements, the WTO shall be guided by the decisions, procedures and customary practices followed by the Contracting Parties to GATT 1947 and the bodies established in the frame work of GATT 1947.

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45 The WTO is established formally by Art. 1 of the WTO Agreement. No reservations may be made to the WTO agreement, reservations to the multilateral trade agreements are allowed only if their terms permit them. WTO Agreement Art XVI. 5 The WTO Agreement is registered in accordance with Art. 102 of the UN Charter. Ibid Art XVI.6.

46 Ibid, Art. 11.2.

47 Note that June 2006 the WTO made public all official GATT documents (1947-95), adding 49,000 previously restricted documents to the 39,000 already in the public domain –see www.who.org/english/deoes/gattdocs_e.htm, visited on 15th September 2007.
2.9 Mandate of the WTO

The WTO was formally established, and became operational on 1 January 1995 when the WTO Agreement came into force.\textsuperscript{48} The WTO has a broad and ambitious mandate such as:

- the objectives of the WTO and
- the functions of the WTO

2.9.1 Objectives of the W.T.O.

The reasons for establishing the WTO and the policy objectives of this international organization are set out in the Preamble to the WTO Agreement. According to the Preamble, the parties to the WTO Agreement agreed to the terms of this agreement and the establishment of the WTO.

“Recognising that their relations in the field of trade and economic endeavour should be conducted with a view to raising standard of living, ensuring full employment and a large and steadily growing volume of real income and effective demand and expanding the production of trade in goods and services, while allowing for the optimal use of the world’s resources in accordance with the objectives of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with the respective needs and concerns at different levels of economic development.”

\textsuperscript{48} Supra
Recognising further that there is need for positive efforts designed to ensure that developing countries, especially the least developed among them, secure a share in the growth in international trade commensurates with the needs of their economic development.

From the Preamble to the WTO we understand that the ultimate objectives of the WTO are as under:

- Raising standard of living
- Ensuring full employment
- The growth of real income and effective demand and
- The expansion of production and trade in goods and services.

The Preamble stresses the importance of sustainable economic development. That means economic development should take into account the environment as well as the social aspects. The Preamble to the WTO stresses two important items which are absent from the Preamble of GATT such as 1. integration of developing countries, and 2. in particular, least developed countries in securing a share in the growth of international trade.

2.9.2 Functions of the WTO

In a wider sense, the primary function of the WTO is to:

Provide the common institutional frame work for the conduct of trade relations among its members in matters related to the agreements and associated legal instruments included in the
Annexes to the (W.T.O) Agreement.\footnote{49 Article 11:1 of the WTO Agreement}

More specifically, the WTO has been assigned six widely defined functions:

Article III of the WTO Agreement states:

1. The WTO shall facilitate the implementation, administration and operation, and further the objectives of this agreement and the Multilateral Trade Agreements, and shall also provide the framework for the implementation, administration and operation of the Plurilateral Trade Agreements.

2. The WTO shall provide the forum for negotiation among its Members concerning their multilateral trade relations in matters dealt with under the agreements in the Annexes further negotiations among its members concerning their multilateral trade relations and a framework for the implementation of the results of such negotiations, as may be decided by the Ministerial Conference.

3. The WTO shall administer the understanding on Rules and Procedures Governing the Settlement of Disputes (herein after referred to as the ‘Dispute settlement understanding’ or DSU) in Annex 2 to this Agreement.

4. The WTO shall administer the ‘Trade Policy Review Mechanism’ (herein after referred to as the TPRM) provided for in Annex 3 to this Agreement.
5. With a view to achieving greater coherence in global economic policy-making, the WTO shall co-operate, as appropriate, with the International Monetary Fund and with the International Bank for Reconstruction and Development and its affiliated agencies.

6. Technical Assistance to developing country members. To allow the latter to integrate into the world trading system, is., undisputedly, also an important function of the WTO.

This section (Art. III) will examine the following functions of the WTO.

- the implementation of the WTO Agreements;
- the negotiations of new Agreements;
- the settlement of Disputes;
- trade policy reviews;
- co-operation with other organization and
- technical assistance to Developing Countries.

Among the functions stated above, the very important function of WTO is the administration of the WTO dispute settlement system, as stated in Article 3.2 of the ‘Dispute settlement understanding’.

The dispute settlement system of the WTO is a central element in providing security and predictability to the multilateral trading system.

The prompt settlement of disputes under WTO agreements is essential for the effective functioning of the WTO and for maintaining a proper balance between the rights and obligations
of members.\textsuperscript{50} The WTO dispute settlement system serves;

- to preserve the rights and obligations of Members under the WTO agreement; and
- to clarify the existing provisions of those agreements.\textsuperscript{51}

The dispute settlement system does not prescribe adding to, or diminishing the rights and obligations provided in the WTO agreements.\textsuperscript{52}

\section*{2.10 Membership of The WTO}
\subsection*{2.10.1 Current Membership}

The membership of the WTO is quasi-universal. It includes all major trading powers and most developing countries. The Members of the WTO represents 92 per cent of the global population and 95 per cent of the world trade. On 15th November 2007 the members on the roll of the WTO was 151. Of the 151 WTO members, 123 were ‘Original Members’ in that they became members pursuant to Article XI of the WTO Agreement.

WTO membership includes not only states, but separate custom territories possessing full autonomy in the conduct of their external commercial relations and in other matters covered by the WTO agreement.\textsuperscript{53}

\textsuperscript{50} See Article 3.3 of the DSU.

\textsuperscript{51} See Article 3.2, second sentence of the DSU.

\textsuperscript{52} See Article 3.2, last sentence of the DSU.

\textsuperscript{53} ‘See Article XII of the WTO Agreement. The explanatory note attached to the WTO Agreement stipulate that the term ‘country’ or ‘countries’ as used in this Agreement and the Multilateral Trade Agreement are to be understood to
### 2.10.2 The European Communities

The European Communities is also a WTO Member but that is a case apart, specifically provided for in the WTO Agreement.\(^{54}\) Thus both the European committees and all Member states of the European Union are full members of the WTO, and that all obligations of the WTO Agreement apply equally to all of them. They can all be held responsible for compliance with all the obligations under the WTO Agreement.

### 2.11 Institutional Structure of The WTO

To carry out the functions and tasks entrusted to the WTO, the WTO Agreement provides for manifold bodies. The main bodies are

1. The basic structure of the WTO
2. The Ministerial Conference
3. The General Council, the DSB and the TPRB (Trade Policy Review Body)
4. Specialised councils, committees and working parties.
5. Trade Negotiations Committee.
6. The WTO Executive Body, and
7. The WTO secretariat.

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\(^{54}\) See Article 11.1 of the WTO agreement.
2.11.1 Basic Institutional Structure

Basic institutional structure of the WTO is set out in Article IV of the WTO Agreement. Subordinate Committees and working groups are added to this structure by later decisions.

There are at present, a total of seventy WTO bodies of which thirty four are standing bodies. Many of these WTO bodies meet on a regular basis, making for a heavy work load for WTO diplomat. In 2001 WTO bodies held nearly 1000 formal and informal meetings. Sometimes as many as four or five formal meetings were convened at the same time.

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56 See Ibid. In 2001, there were nearly 400 formal meetings, 500 informal meetings and some 90 other meetings such as symposia workshops and seminars organized under the auspices of the WTO bodies.

57 See Ibid.
Figure 2.2
WTO Organisation Chart

Source: WTO Publication

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2.11.2 Ministerial Conference

Article IV.1 of the WTO Agreement states that “there shall be Ministerial Conference composed of representatives of all the Members which shall meet at least once in every two years. The Ministerial conference shall carry out the function of the WTO and take actions necessary to this effect. The Ministerial Conference shall have the authority to take decisions on all matters under any of the Multilateral Trade Agreements; if so requested by a Member; in accordance with the specific requirements for decision making in this agreement and in the relevant Multilateral Trade Agreement”.

The Ministerial Conference is the supreme body of the WTO. It is composed of Minister-level representations from all Members and has decision making powers on all matters under any of the Multilateral WTO agreements.59

In addition to this very broad decision making powers, the Ministerial conference has been explicitly granted a number of specific powers, such as

- Adopting authoritative interpretations of the WTO Agreement.60
- Granting waivers61
- Adopting amendments62

59 For the Rules of procedure for the Ministerial Conference; See WT/L/161 dated 25th July 1996.

60 Article IX.2 of the WTO Agreement.

61 Article IX.3 of the WTO Agreement.

62 Article X of the WTO Agreement
• Making decision on accession\textsuperscript{63} and
• Appointing the Director General and adopting staff regulations.\textsuperscript{64}

\textbf{2.11.3 General Council, DSB and TPRB}

According to Article IV.2 of the WTO Agreement, “There shall be a General Council composed of representatives of all the Members, which shall meet as appropriate. In the intervals between meetings of the Ministerial Conference, its functions shall be conducted by the General Council. The General Council shall also carry out the functions assigned to it by this agreement. The General Council shall establish its rules of procedure and approve the rules of procedure for the committee provided for in paragraph 7 of the Article 4.2.

The General Council is composed of ambassador-level diplomats, and normally meets once every two months\textsuperscript{65}. All WTO members are represented in the General Council. As with all other WTO bodies, except the Ministerial Conference, the General Council normally meets on the premises of the WTO Secretariat in Geneva. Each year, the General Council elects its Chairperson from among its members. The Chairperson of the General Council holds the highest elected office within the WTO. The general council is responsible for the continuing, day-to-day management of the WTO and its many activities. In between sessions of the Ministerial conference, the General Council

\textsuperscript{63} Article XII of the WTO Agreement

\textsuperscript{64} Art. VI:2 and VI: 3 of WTO Agreement.

\textsuperscript{65} For the Rules of Procedure of the General Council, See WT/L/161 dated 25\textsuperscript{th} July 1996.
exercises the full powers of the Ministerial Conference.\footnote{Note that, when the Ministerial Conference is in session, it will typically focus on issue other than the exercise of the specific powers entrusted to it. See the Political Economy of International Trade Law. Essays in Honor of Robert E. Hudee (Cambridge University Press, 2002). p. 83.}

In addition, the General Council also carries out some functions specifically assigned to it. The General Council is responsible for adopting the annual budget and financial regulations\footnote{Article VII. 3 of the WTO Agreement.}, and making appropriate arrangements for effective cooperation with international organization and NGO’s.\footnote{Article V.1 of the WTO Agreement.}

Rule 37 of the Rules of Procedure for the Meetings of the General Council States:

“The meetings of the General Council shall ordinarily be held in private. It may be decided that a particular meeting or meetings should be held in public.”

In practice, the General Council always meets behind closed doors. After the meeting, the Chairperson may issue a ‘communique’ to the press.\footnote{See Rule 38 of the Rules of Procedure for the Meetings of the General Council. WT/L/161, dated 25\textsuperscript{th} July 1996.}

2.11.4 D.S.B and TPRB

The functions specifically assigned to the General Council also cover dispute settlement and trade policy review.

\begin{itemize}
\item \textbf{D.S.B and TPRB}
\end{itemize}
Article IV.3 and 4 of the WTO Agreement state the following respectively.

- The General Council shall convene as appropriate to discharge the responsibilities of the Dispute settlement understanding. The Dispute settlement Body may have its own chairman and shall establish such rules of procedure as it deems necessary for the fulfillment of its responsibilities.

- The General Council shall convene as appropriate to discharge the responsibilities of the Trade Policy Review Body provided for in the TPRM. The Trade Policy Review Body may have its own chairman and shall establish such rules of procedure as it deems necessary for the fulfillment of those responsibilities.

The General Council, the Dispute Settlement Body (DSB) and the Trade Policy Review Body (TPRB) are, in fact, the same body.

2.11.5 Specialised Council, Committees and Working Parties

2.11.5.1 Specialised Council

Below the General Council, the DSB and the TPRB, there are three so called specialized councils. The Council for Trade in Goods (CTG)\textsuperscript{70}, the Council for Trade in Services (CTS)\textsuperscript{71} and the

\textsuperscript{70} For the Rules of Procedure for the CTG, See WT/L/79 dated 7\textsuperscript{th} August 1995.

\textsuperscript{71} For the Rules of Procedure for the CTS, See S/L/15, dated 19\textsuperscript{th} Oct : 1995.
Council for TRIPS\textsuperscript{72}. Article IV. 5 of the WTO Agreement states:

There shall be a Council for Trade in Goods, a Council for Trade in Services and a Council for Trade Related Aspects of Intellectual Property Rights (hereinafter referred to as the Council for TRIPs), which shall operate under the General guidance of the General Council. The Council for Trade in Goods shall oversee the functioning of the Multilateral Trade Agreement. The Council for Trade in Service shall oversee the functioning of the General Agreement on Trade in Service (GATS.)

The Council for TRIPS shall oversee the functioning of the Agreement on Trade Related Aspects of Intellectual Property Rights (hereinafter referred to as the Agreement on TRIPS) These Councils shall carry out the functions assigned to them by their respective agreements and by the General Council. They shall establish their respective rules of procedure, subject to the approval of the General Council. Membership in these councils shall be open to the representatives of all members. These Councils shall meet as necessary to carry out their functions.

\textbf{2.11.5.2 Committees and Working Parties}

In addition to the above three specialized councils, there are a number of committees and working parties that assist the Ministerial Conference and General Council in carrying out their functions. The Committee includes the important committee on Trade and Development Article IV.7 of the WTO Agreement states

\textsuperscript{72} For the Rules of Procedure for the Council for TRIPS, See IP/C/1, dated 28 September 1995
in pertinent part:

“The Ministerial conference shall establish a committee on Trade and Development, a Committee on Balance of Payments Restrictions and a Committee on Budget; Finance and Administration, which shall carry out the functions assigned to them by this Agreement and by the Multilateral Trade Agreements and any additional functions assigned to them by the General Council, and may establish such additional committees with such functions as it may deem appropriate... Membership in these committees shall be open to representatives of all Members.”

In exercising the powers conferred on it in Article IV.7, the General Council established the following committees:
Committee on Trade and Environment in 1995
Committee on Regional Trade Agreement in 1996.

2.11.6 Trade Negotiation Committee

The Doha Development Round negotiations are conducted in the Trade Negotiations Committee (TNC) and its subordinate negotiation bodies. The TNC was established by the Ministerial

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73 This committee was established at the same meeting of the General Council on 31 January 1995 at which the Committee on Trade and Development, the committee on Balance – of – Payment Restrictions and Committee on the Budget, Finance and Administration were established (See WT/GC/M(1).)

74 See WT/GC/m/10, dated 6 March 1996, para. 11

75 Article 11:1 of the WTO Agreement
Conference at its Doha session in November 2001. This body supervises the overall conduct of the negotiations under the authority of the General Council. The TNC reports on the progress of the negotiations to each regular meeting of the General Council. The detailed negotiations take place either in special sessions of standing WTO bodies or in a specially created negotiating group. The TNC established two such new negotiating groups, one on market access and the other on rules. Most of the negotiations, however, take place in special session of the standing WTO bodies (such as Dispute Settlement Body, the Council for Trade in service and the Committee on Agriculture) and its negotiating bodies consists of all the WTO members and all countries negotiating membership.

### 2.12 WTO Executive Body

All political WTO bodies are composed of the 151 WTO members. It is clearly impossible to negotiate effectively with such a large number of Members. Therefore, the GATT 1947 as well as now the WTO mechanisms have been developed to reduce the number of countries actively participating in the deliberation of WTO bodies as its Executive Body.

#### 2.12.1 WTO Secretariat

The WTO secretariat is based in Geneva, and has a staff of

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77 See note 39 in page.

78 Article VI:1 of the WTO Agreement. The WTO Secretariat has its office in Geneva at the centre William Rappard by lake Geneva.
around 625 persons. This shows that WTO is one of the smallest secretariat of any of the major international organizations. Its prime function is to keep the ‘WTO network’ operating smoothly.

2.12.2 Appointment of Director General

The Secretariat is headed by a Director General, who is appointed by the Ministerial Conference\textsuperscript{79}. The Ministerial Conference adopts regulations setting out the powers, duties, condition of service and the term of office of the Director General.

2.12.3 Role of the Director General and the WTO Secretariat

The Members of the WTO set the agenda and make decisions. Neither the Director General nor the WTO Secretariat has any autonomous decision – making power. The Director General and the WTO Secretariat act primarily as an ‘honest broker’ in or a ‘facilitator’ of, the decision making process within the WTO. They are not expected to act as initiators of proposals for action or reform. In such a situation, the Director General and the WTO Secretariat can, however, make an important contribution to the building up of consensus among members on a specific agreement or decision.

2.12.4 The Main Duties of WTO Secretariat

The WTO Secretariat exercises the following duties:

- To provide technical and professional support to various

\textsuperscript{79} See Article VI:2 of the WTO Agreement
WTO bodies.

• To provide technical assistance to developing country members.
• To monitor and analyse development in world trade.
• To advise government of countries wishing to become member of the WTO and
• To provide information to the public and the media.

2.12.5 The Structure and composition of the WTO Secretariat

As stated above, the WTO secretariat is headed by the Director General. The Director General is assisted by four Deputy Director Generals (DDGs) also political appointees serving for a limited period of time. They are appointed by the Director General in consultation with the WTO Members, and form the Secretariat together with the Director General.

The WTO secretariat is organized into divisions with functional role, division with information and liaison and division with a supporting role. In addition to divisions, the WTO secretariat also includes the Institute for Training and Technical Cooperation (ITTC) which was established in 2003 to ensure a coherent and coordinated approach to capacity-building and technical assistance.80

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80 See in this report the Technical Assistance Management Committee (TAMC) in which all relevant WTO divisions are represented.
2.13 International Monitory Fund (IMF)

As stated elsewhere, two more international financial institutions were organized at the Bretton Woods Conference, held in July 1944 at Bretton Woods (New Hampshire, USA), of which one is the International Monitory Fund, hereinafter called ‘Fund’, and the other, the International Bank for Reconstruction and Development, (IBRD) herein after called World Bank along with the General Agreement on Tariff and Trade (GATT).

Fund was established in December 27, 1945, and it started functioning on March 1, 1947. The statute for ‘Fund’ was adopted in the Bretton Woods Conference to promote
international monitory co-operation and economic development. The purpose of the Fund can be summarized as

(i) To provide international monitory co-operation and expansion of international trade.

(ii) To promote exchange stability, maintain orderly exchange, management, and

(iii) establish a multilateral system of payments in respect of current transactions among members and the elimination of foreign exchange restrictions which hamper the growth of world trade.

In order to carry out these purposes, it sells foreign exchange as gold to members of the IMF for international trade, and advise governments on financial problems. It has also recommended antiinflationary measures with respect to investment and bank credit, government spending and taxation. It has also pressed for fiscal and monitory measures to lessen the need for foreign exchange restrictions, and, in case of marked improvement in monitory reserves, has advocated relaxation of controls on imports.

For the attainment of these purposes, Fund has established permanent institutions which provide the machinery for consultation and collaboration on international monitory problems.

International Monitory Fund has the following main organs (1) A Board of Governers (2) Executive Directors and (3) Managing Director. All the powers of the International Monitory Fund are vested in the Executive Directors, who elect one Managing Director from amongst themselves. Besides, there are 18 Executive Directors responsible for the general functions of the
organisation. The Managing Director acts as the Chairman of the Executive Directors.

International Monitory Co-operation, as conceived by the IMF, has three fundamental aspects: (1) Harmonization of national economic interests with those of the other members of the international community. (2) Provision of financial assistance on a temporary basis so as to help countries restore balance of payments equilibrium without hurting the economies of other member countries and (3) the promotion of economic growth and high employment.81

The IMF is a World Central Bank with sufficient resources at its disposal and with its own currency called Bancor. Its head quarter is in Washington.

2.13.1 Charge of Surrender of India’s Economic Sovereignty to IMF

When the present Prime Minister Dr. Man Mohan Singh was the Finance Minister of India, he had taken (a second time) a large amount to meet her balance of payment problem which arose out of rise in price of petrol due to Gulf War. Opposition parties charged the Indian Government of surrendering Economic sovereignty to IMF by accepting its conditions and adopting its budgets accordingly. But as pointed out by the Indian Finance Minister Dr. Man Mohan Singh, any member of IMF taking loan has to accept certain conditions and that there was no question at all of surrendering economic sovereignty of the country. As a

matter of fact, sovereignty is a problematic concept. In theory, each country jealously guards its sovereignty and is not prepared to surrender its sovereignty in international transactions. As pointed out by Judge Lauterpach, international law, whether codified or not, implies restrictions upon sovereignty of nations. Indeed it is trinism due to interdependence of states.\footnote{S.K. Kapoor. Dr. International Law, Central Law Agency 30D/1 Motilal Nehru Rood, Allahabad (1994) p.657.}

### 2.14 International Bank for Reconstruction and Development (IBRD) Generally called World Bank

World Bank is another child of the Bretton Woods Conference. The Bank was established on 27 December 1945, when representatives of the twenty eight countries signed the Articles of Agreement drawn up at Bretton Woods Conference in July 1944, and it started functioning on June 25, 1946. The Bank is one of the specialized agencies of the United Nations. The aims of the International Bank for Reconstruction and Development (IBRD) are to:

(i) assist in the reconstruction and development of territories of members by facilitating the investment of capital for production purposes.

(ii) promote private foreign investment, and, when private capital is not readily available on reasonable terms, supplement private investment by providing loans for productive purposes out of its own capital funds and its other resources, and
(iii) promote the balanced growth of international trade and the maintenance of equilibrium in balance of payments by encouraging international investment for the development of productive resources of ‘World Bank’ members. Thus on a good risk basis, the Bank lends funds, or guarantees loan for reconstruction of industries and development of economic facilities. By so doing, it promotes the flow of capital internationally for productive purposes. The loans may be made to member countries, to their political sub-divisions, or to private business enterprises in their territories. The Bank’s aid is not limited to arranging loans; it also sends missions in various functions to countries which request them. The Bank’s aid is not limited to granting loans. It also provides a wide range of technical assistance and service to member countries. The membership of the Bank is open to states which were the members of the IMF before December 31, 1945. Others may be admitted by majority votes of the Board of Governors. But the membership of the IMF is a pre-requisite for membership to the Bank. If a member of the Bank ceases to be a member of the IMF, it will lose its membership in the Bank, when the Board of Governors decides otherwise by three forth votes. This provision has been made to ensure the observance of the Articles of Agreement of the IMF by the members of the Bank. The Bank has been instrumental in the channeling of developmental assistance from individual, developed countries to the developing countries. Several consortia, such as, aid consortium to India, have been formed to achieve this purpose.
The Bank has the following main organs. (A) Board of Governors. (B) Executive Directors (C) President. The Board of Governors comprises of a Governor and alternate member. It is constituted for a term of 5 years and holds its session once in a year. All the powers of the Bank are concentrated in the Board. The Board has delegated its powers to 18 executive Directors who perform the General Functions of the Bank. The Executive Directors elect a President who is responsible to the organization and presides over the meetings of the executive directors.

On 28 April 1992, Russia and 12 former Soviet Republics won entry into the World Bank and IMF, thus gaining access to billions in the west and to help rescue their shattered economics. Though their admissions were approved, yet it was Russia who on 17 June, 1992 became the first of the republic of former Soviet Union to officially join the World Bank. Early in June 1992 Russia had joined the IMF.

A brief account of the origin and history of the GATT/WTO and its associate organizations named IMF and World Bank has been presented here, as these institutions are instrumental to international trade.
Chapter III

EVOLUTION OF DISPUTE SETTLEMENT MECHANISM IN THE WORLD TRADE ORGANISATION