Chapter 2

World Trade Organization (WTO) – An Indian Perspective

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1. Introduction

The preceding chapter illustrated, inter-alia, the objectives, hypotheses and utility of the purported study. It also encapsulated the essence of the entire thesis in terms of enquiring into the circumstances that paved way for the establishment of the WTO. The study further scanned the various agreements conceived by the WTO. Cross-cuttings issues that spawned the pause between the developed and the developing countries at various conferences have also been threadbare examined.

Globalization has become driving anthem at world echelon of trade and investment mainly after the collapse of the Iron Curtain in Russia and China ushering into major economic reforms. The most substantial dimension of globalization is its role in fostering the economic integration in countries. Globalization has now escalated the pace of the flows of trade, capital, labor and ideas among the countries of the world. Thus, of late, the economies, the world over, have started acknowledging the prowess of globalization in bestowing the fruits of trade and investment in terms of better market access, new technologies and waning of debt. Consequently the economies in their quest to make their domestic economic echelon bask under the forces of globalization, have started honing their economic and trade policy in consonance with the entailed global economic benchmarks. But the most unfortunate reality is that for considerable number of the developing countries including the least developed countries, the
participation at the global echelon of trade is not as straightforward and forthright as the rhetoric and flag bearer of globalization propagates.

Keeping this perspective into mind, in the month of September of new millennium year i.e. 2000, 189 member states of United Nations embraced the Millennium Development Goals. These goals numbering eight in figures, strive on making the world a better place to live by 2015.¹ The key of all Millennium Development Goals rests on the accomplishment of objectives of goal number eight which aims at forging a global partnership for development. This goal makes a clarion call for an open, rule-based trading and financial system which can characterize as spring board for developing countries in their quest for better market access, having essential drugs, availing new technologies, easing the burden of debt and assist in marching with developed countries at the plane of international trade.

With the attributes of globalization tinging the fabric of domestic rung of economies, WTO has become the driving force of globalization. In fact, the institution of WTO has become the trade engine of globalization. The inception of world trade organization (WTO), as a rule-based system, has emerged as mentor for developing countries. WTO has accelerated the pace of liberalizing trade and investment along with growth and living standard. The mechanism of WTO facilitates security and predictability of trade ambience to traders, firms, small and medium enterprises engaged in markets. WTO assists the developing countries in integrating into a fast-paced global economy. WTO has shown respect for developing countries
while constituting set of rules for trade in goods, services and intellectual property. The tenets of WTO govern not only to one-fifth of world production that is traded, but also set alight to those goods and services that never came under the umbrella of trade and commerce.\textsuperscript{2} The status quo trade rules of WTO facilitate the world trade in goods and service to be successfully conducted at the rate of close to US$ 1 billion per hour.\textsuperscript{3} This astonishing manifestation of statistics is in it self axiomatic in revealing the potent of this juggernaut institution.

It is beyond belief but has attest of time that way back in 1700; India was actually the world’s second largest economy, accounting for 22.6 per cent of world income\textsuperscript{4}. Three hundred years on, it is with just around 5 percent of World Income. After Independence India adopted “inward-looking import substitution” approach based on Mahalanobis and Nehru model which was heavily guided by Soviet model of development. Growth obviously got materialized but it had lop sided traits that led to dilapidation and impairing of the economy, thereby paved way to a “U-turn” in direction of Indian economic policy. Rao-Man Mohan Model of development floated in July 24, 1991 adopted big bang theory of economic reforms with emphasis on privatization and globalization. Macro-economic management reforms as well as the structural and sector – specific economic reforms were introduced at the domestic plane of the Indian economy. Under this backdrop of country’s signaling green to the winds of globalization, on January 1, 1995 World Trade Organization (WTO) came into being.
The following paragraphs pertaining to the various facets of WTO make a flashback on the events leading to formation of GATT, the predecessor of WTO.

2. Formation of GATT

After the Second World War, it was acknowledged that the key to the peaceful political ambience at international arena rests on financial and commercial stability. The Bretton Woods conference facilitated the inception of international institutions, namely, the International Bank for Reconstruction and Development (World Bank), the International Monetary Fund (IMF) which saw the light of the day on December 27, 1945. Emergence of these financial giants led to a general awakening for an organization that can remove the rising intricacies of global trade and commerce. Over fifty countries participated in negotiation to form an International Trade Organization (ITO). But before countries finally subscribed the charter of ITO, twenty three of the fifty participants in 1946 negotiated to reduce and bind customs tariff to foster trade liberalization. The twenty three participants also embraced some of the trade rules of drafted ITO charter with a view to protect the value of tariff concessions that they had mutually agreed. The amalgamated package of trade rules and tariff concessions became known as the General Agreement on Tariff and Trade, and came into force in January 1948. The twenty three countries became founding GATT members.

The final act, embodying the charter for the International Trade Organization (ITO) was attested on March 24, 1948 by
fifty-three countries. But unfortunately in 1950, owing to serious opposition by US congress, the United States government could not seek congressional ratification of the Havana Charter, thus leading to burial of International Trade Organization in annals of history.

Thus, GATT which emerged as an organization for reducing tariff and other barriers steadily filled the void created by failure of ITO and thereby evolved into an international organization based in Geneva.

The cardinal pursuits of GATT in nutshell were:

1. Tariff bargaining
2. Bargaining on non-tariff trade barriers.
3. Elimination of quantum restrictions.
4. Settlement of disputes between contracting parties.

Additions to GATT's basic legal principles were in the form of framework of a section on development in 1960s and plurilateral agreements in 1970. GATT continued its efforts to reduce tariff further through a series of negotiations known as "Trade Rounds".

3. GATT Rounds

The first five GATT trade rounds focused on reducing the tariffs. It was for the first time in the Kennedy GATT trade round that a new subject called Anti-Dumping Measures was brought up. The Tokyo Round that took place in the seventies was the first major attempt to handle those trade barriers, which were not tangible in form of tariffs. The ensuing Table-1 fleshes out on
the rung of developments brought out during the GATT Rounds. Thus the world witnessed the role of GATT in fostering the liberalization of World Trade.

**Table 2.1**

**GATT Rounds**

(1947-1993)

<table>
<thead>
<tr>
<th>Round</th>
<th>Year</th>
<th>Place</th>
<th>Subjected Covered</th>
<th>Outcome</th>
<th>Countries</th>
</tr>
</thead>
<tbody>
<tr>
<td>First</td>
<td>1947</td>
<td>Geneva (Switzerland)</td>
<td>Tariffs</td>
<td>20 tariff schedules were formed, 45000 tariff concession representing half of World Trade</td>
<td>23</td>
</tr>
<tr>
<td>Second</td>
<td>1949</td>
<td>Annecy (France)</td>
<td>Tariffs</td>
<td>Some 5000 tariff concession exchanged</td>
<td>13</td>
</tr>
<tr>
<td>Third</td>
<td>1950-51</td>
<td>Torquay (England)</td>
<td>Tariffs</td>
<td>Around 87000 tariff concessions exchanged</td>
<td>38</td>
</tr>
<tr>
<td>Fourth</td>
<td>1956</td>
<td>Geneva (Switzerland)</td>
<td>Tariffs</td>
<td>$82.5 billion worth of tariff reduction</td>
<td>26</td>
</tr>
<tr>
<td>Fifth</td>
<td>1960-61</td>
<td>Geneva (Switzerland)</td>
<td>Tariffs</td>
<td>4400 tariff concession exchanged covering $4.9 billion of worth of trade</td>
<td>26</td>
</tr>
<tr>
<td>Sixth</td>
<td>1964-67</td>
<td>Geneva (Switzerland)</td>
<td>Tariffs and Anti-dumping measures</td>
<td>Achieved 35 percent reduction in tariffs on manufactured goods covering $40 billion of trade</td>
<td>62</td>
</tr>
<tr>
<td>Seventh</td>
<td>1973-79</td>
<td>Tokyo (Japan)</td>
<td>Tariff non tariff measures, &quot;framework&quot; agreement</td>
<td>Signed agreement covering non-tariff barriers subsidized exports and tropical products. Tariff reduction and binding covered about $300 billion</td>
<td>102</td>
</tr>
<tr>
<td>Eight (Uruguay Round)</td>
<td>1986-93</td>
<td>Punta Del Este (Uruguay/Geneva)</td>
<td>Tariffs, non-tariff measures, rule, Services, Intellectual dispute settlement agriculture of WTO</td>
<td>Agriculture included in agenda for the first time. New terms of trade in services, protection of Intellectual property rights and deregulation of controls over foreign investments Tariffs on industrial goods reduced. Reduction in farm export Subsidies and Removal of Import barriers.</td>
<td>123</td>
</tr>
</tbody>
</table>

Source: www.wto.org
With the passage of time, in late 70’s many unfamiliar forms of business intricacies in form of FDI, Trans-border movement of personnel, market access, subsidies, dumping, patents and a large number of other issues stemmed up. These issues entailed to be addressed at some international fora. To cope with the cropping up of these challenges and intricacies of global trade and commerce, in March 1985, Leutwiler Report entitled “Trade Policies for a Better Future” was revealed. The report made recommendations to broaden up the trading system, thereby paved the decision to kick off the Uruguay Round of multilateral trade negotiations in September 1986.

The Uruguay Round of negotiations was launched at Puta Del Este in Uruguay. The ministers of GATT Member countries agreed to complete the Uruguay Round with a time span of 4 years. But owning to differences on various issues, it took complete 8 years of protracted negotiations. Thus by 15th December, 1993 all issues were figured out and negotiations on market access for goods and services were completed. The subjects negotiated at the Uruguay Round were as followed, (i) Tariffs (ii) Non-Tariff barriers (iii) Natural Resource Products (iv) Textiles and Clothing (v) Agriculture (vi) Tropical Products (vii) GATT articles (viii) Tokyo Round Codes (ix) Anti-dumping (x) Subsidies (xi) Intellectual Property (xii) Investment Measure (xiii) Dispute Settlement (xiv) The GATT System (xv) Services.

Finally, on 15th April 1994, ministers from one hundred twenty three countries ratified the deal at a meeting organized in Marrakech, the capital city of Morocco. Members also reached out on the formation of a new body to be baptized as World
Trade Organization (WTO) to watch over the successfully implementations of the subjects that got germinated at the Uruguay Round (UR).

4. **The WTO: Functions and Structure**

The last round of GATT, the Uruguay Round paved the way for the formation of World Trade Organization (WTO). The establishment of this institution similar to original ITO on January 1, 1995 fulfilled the longstanding demand of an organization to oversee the world trading system.

The rule based system holds mandate in proper implementation of all the multilateral and plurilateral agreements that have been worked out in Uruguay Round and those which shall be chalked out in future course of time. The WTO endeavors to substantiate and foster the pace of trade, investment, employment and income growth throughout the world economy. The system of WTO aims at providing liberal, secure and predictable access to foreign markets for the goods and services products of exporting enterprises. WTO makes it certain that the enterprises face equitable competition without disrupting restriction while marketing their product at international echelon of trade. Along with fostering the escalation of trade, the system of this organization has eye on environment too.

4.1 **Functions**

The Agreement establishing WTO directs following five functions.
a. Overseeing the implementation, administration and operation of the Uruguay Round legal instruments.

b. Provide a forum for fostering trade liberalization negotiations emerging from the Multilateral and Plurilateral Agreements.

c. Regulate and administer the settlement of disputes among its members.

d. To administer the Trade Policy Review Mechanism.

e. Co-operate fully with the International Monetary Fund and the World Bank for the furtherance of policy-making.

4.2 Guiding Principles

The Guiding Principles of WTO are

a. Non-discrimination trading system through following mechanism

   (i) Most Favored Nation (MFN) - Any Trade concession offered by one member of WTO to another member must be offered to all members.

   (ii) National Treatment - Same treatment should be accorded to imported goods and the domestic goods.

   (iii) Reciprocity - Mutual advantage to all contracting parties

b. Freer trading system
c. Predictable Trading System
d. More competitive trading system
e. More beneficial to less developed countries

4.3 The WTO Secretarial and Budget

The WTO secretarial is based in Geneva, Switzerland. It has approximately 550 staff and is headed by a Director – General. The WTO budget is over 150 million Swiss frames with individual contribution determined on account of share in the total trade by WTO member countries.

4.4 WTO Structure: Echelon of Decision – Makers at WTO

a. Highest Authority – Ministerial Conference is the apex decision making forum. It comprises the designated Ministers of the member countries. Ministerial conference has to meet at least once every two years. The Ministerial conference can take decision on all matters under any of the multilateral trade agreement.

b. Second Level – General Council

Three bodies run day-to-day work in between the ministerial conference.

- The General Council
- The Dispute Settlement Body
- The Trade Policy Review Body

Third level: Councils for each broad area of trade.

c. Three additional councils, each covering a different broad area of trade, report to the General Council.
The council for Trade in Goods (Goods Council)

The Council for Trade in Services (Services Council)

The Council for Trade-Related Aspects of Intellectual Property Rights (TRIPS Council)

These councils also consist of all WTO members.

Six other committees report to General Council. These committees are as follows: a committee on Trade and Development, a committee on Balance of Payments; a Committee on Budget, Finance and Administration, a Committee on Trade and Environment, Committees oversee the Plurilateral Trade Agreements.

d. Fourth Level

Each of the higher level council has subsidiary bodies. The Goods Council has 11 committees. The service councils’ subsidiary bodies deal with financial services domestic regulation, GATS rules and specific commitments.

At the General Council level, the Dispute Settlement Body has two subsidiaries. (a) Dispute settlement “Panels” of experts (b) Appellate Body.
Ministerial Conference

General Council meeting as Dispute Settlement Body

General Council

General Council meeting as Trade Policy Review Body

Appellate Body

Dispute Settlement panels

Committees on
- Trade and Environment
- Trade and Development
- Sub-committee on Least Developed Countries
- Regional Trade Agreements
- Balance of Payments
- Restrictions
- Budget, Finance and Administration

Working parties
- Accession

Working groups on
- Relationship between Trade and Investment
- Interaction between Trade and Competition
- Policy
- Transparency in Government Procurement
- Trade debt and finance Trade and technology transfer

Committees on
- Market Access
- Agriculture
- Sanitary and Photometry
- Measures
- Technical Barriers to Trade
- Subsidies and Countervailing Measures
- Anti-Dumping Practices
- Customs Valuation
- Rules of Origin
- Import-Licensing
- Trade-Related Investment
- Measures
- Safeguards
- Textiles Monitoring Body
- Working party on State-Trading Enterprises

Council for Trade in Goods

Council for Trade-Related Aspects of Intellectual Property Rights

Council Trade in Services

Committee on
- Trade in Financial Services specific Commitments
- Working parties on Domestic Regulation
- GATS Rules
- Plurilaterals
- Trade in Civil Aircraft
- Committee Government Procurement
- Commitment

Doha Development Agenda:
- TNC and its bodies

Trade Negotiations Committee

Special Sessions of
- Services Council/TRIPS Council/Dispute Settlement Body/Agriculture Committee/Trade
- And Development Committee/Trade and Environment Committee

Negotiating groups on
- Market Access/Rules

Source: www.wto.org
To iron out galore intricacies of global trade matter, the WTO also constitutes adhoc working parties and committee that includes representation of WTO members.

5. Ministerial Conferences

5.1. First Ministerial Conference (December 9-13, 1996)

The first Ministerial Conference of the WTO was held in December 9-13, 1996 in Singapore. The developed member forced at the meeting for enlarging the agenda of the WTO for initiating the process of reaching multilateral agreements on the following issues.

(i) Investments
(ii) Competition policy
(iii) Transparency in Government Procurements
(iv) Trade Facilitation

Developed countries at this meeting placed the genesis of labor standard. India along with developing countries came with strong reservations to all five Singapore issue listed above.12

5.2 Second Ministerial Conference (May 18- 20, 1998)

The second WTO ministerial conference was held in Geneva from May 18- 20, 1998. The conference coincided with the 50th Anniversary of the emergence of GATT, the precursor of WTO. The member countries at the conference pledged to work on preening the public image of WTO. The successful part of the Geneva conference was the acknowledgement of trade minister’s reiteration in manifesting faith in multilateral trading system. Negotiations on basic telecommunications and financial services were successfully concluded under this conference. The member
countries also made stress on the follow up of Uruguay Round Agreement along with inserting E-commerce issues under the WTO agenda.\textsuperscript{13}

5.3 Third Ministerial Conference (November 29 to December 3, 1999)

The third ministerial conference of World Trade Organization was held from November 29 to December 3, 1999 at Seattle, Washington. The meeting was a fiasco, as it failed to launch the promised new round. Protesting groups were divided into two major groups. (i) Those clamoring their disapproval against WTO itself and its plan of globalization and trade liberalization (ii) Those advocating for encompassing of labor and environment standards under the ambit of WTO agreement. Labor and Agriculture issues created Seattle stalemate. The EU with ally of Japan and other East European countries was against total elimination in subsidies. The cairns group, along with India and US were proponent of full elimination of agriculture subsidies.\textsuperscript{14}

5.4. Fourth Ministerial Conference (November 10-14, 2001)

The fourth Ministerial Conference of WTO was held at Doha (Qatar) in November 10-14, 2001. The most remarkable attainment of this Doha meeting was launching of Doha Development Agenda (DDA). The gist of the DDA was to chalk out terms and conditions that can foster development and facilitate the developing countries (encompassing the least developed countries) to avail the fruits from further global trade liberalization. India led developing countries drew attention on
lack of progress on the implementation of the agreements arrived so far (“Implementation” Issues) along with non-inclusion of any new issues on the WTO’s work programmes. The only silver lining emerged was the attainment of agreement on the issue of access to generic medicines for those poor countries that have no production capacity.15

5.5 Fifth Ministerial Conference (September 10-14, 2003)

The fifth ministerial conference was held from September 10-14, 2003 at Mexico. The conference failed to materialize any agreement. Insolvable variances came forefront between developed and developing countries on the issues pertaining to Agriculture, Singapore issues and West African Cotton initiative. Developing Countries (G-22) led by India, Brazil, South Africa and China for the first time manifested their unity against the developed countries. Developing countries were successful in uprooting the pressure tactics of developed countries.

Owing to this conundrum, Doha Development Agenda (DDA) and Non-Agricultural Products Market Access (NAMA) failed to receive the much-wanted momentum. At Cancun, India was categorically against to the inclusion of Singapore issues in the WTO agenda and was also opposed to the proposal of tying up the pace on these issues with progress on agricultural trade issues.16

5.6 Sixth Ministerial Conference (13-18 December 2005)

The Sixth Ministerial Conference will be held at Hong Kong, China during 13-18 December 2005. The institution of World Trade Organization will face test of fire at Hong Kong. The
successful negotiation at this conference is determinant for the successful conclusion of Doha Development Agenda (DDA). The creditability of WTO is at stakes at this conference. Another unproductive summit shall wane the prowess of this global trade giant.

6. Developing Countries under the WTO Umbrella

With awakening in recognizing trade as a vital tool in their development efforts, the developing countries have started making beeline at WTO landscape. This manifestation is self-axiomatic as developing countries count to two third outs of 148 members. The WTO acknowledges the fragile and vulnerable economic architecture of developing countries and thereby facilitates these countries through its mechanisms.

The WTO deals with special needs of developing countries in three ways.17

- The WTO agreement contains special provision on developing countries.
- Committee on Trade and Development take care of developing countries problems.
- WTO secretarial furnishes technical assistance.

The WTO agreements through its special and different treatment compel the developed countries to treat the developing countries more favorable than other WTO member. GATT (part 4) includes the principle of non-reciprocity in trade negotiations between developed and developing countries.

Both GATT and the General Agreement on Trade in services allow developing countries to have preferential
treatment. Under WTO Agreement, the developing countries have the following facilities:

- Provided Extra time to fulfill their commitments.
- Trading opportunities through greater market access.
- Safeguard the interest while embracing domestic or international measures.
- Special legal advisers for assisting in any WTO dispute as well provide legal counsel.

6.1 Least Developed Countries

A number of programs including Technical Assistance Programs (TAP) have been launched by WTO particularly for the least developed countries.

6.2 The Doha Agenda Committee

Under the Doha Development Agenda of Doha Ministerial conference, a number of new working groups are constituted for developing countries.

6.3. WTO Technical Cooperation

Technical cooperation aims at assisting developing countries in building vital institutions and to train officials.

7. WTO Agreements and India

The WTO brings under its umbrella the agreements on trade in goods, services and intellectual property. These agreements imbibe the principles of liberalization and the permitted exceptions. WTO agreements also include individual country commitments to lower custom tariffs, other trade barriers and to keep open service markets. The agreements spell out special treatment for developing countries. These agreements
also aim at making government of member countries revamp their trade policies in a fashion adhering to WTO norms. The legal texts are list of about 60 agreements, annexes, decisions and understanding. The texts of the legal instrument run to over 400 pages. They are supplemented by more than 22000 pages of national schedules manifesting the specific liberalization commitments taken up by WTO members.\textsuperscript{18}

The agreement for the two largest areas of trade-goods and services share a common three part out-line. Table-2 sheds light on the basic structure in a nutshell.

1st Broad Principle of GATT and GATS (TRIPS also falls into this category)

IIInd Extra agreements and annexes dealing with the special requirement of specific sectors or issues.

IIIrd Compendium of Commitments of Individual countries.

\textbf{Table-2.2}

\textbf{Basic Structure of Agreements Under WTO}

<table>
<thead>
<tr>
<th>Umbrella</th>
<th>Agreement Establishing WTO</th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Goods</td>
<td>Services</td>
<td>Intellectual Property</td>
</tr>
<tr>
<td>Basic Principles</td>
<td>GATT</td>
<td>GATS</td>
<td>TRIPS</td>
</tr>
<tr>
<td>Additional details</td>
<td>Other goods agreements and annexes</td>
<td>Services annexes</td>
<td></td>
</tr>
<tr>
<td>Market access commitments</td>
<td>Countries schedules of commitments</td>
<td>Countries schedules of Commitments (and MFN exemption)</td>
<td></td>
</tr>
<tr>
<td>Dispute Settlement</td>
<td>Dispute Settlement</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transparency</td>
<td>TRADE POLICY REVIEWS</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Source: www.wto.org
supporting and facilitating these agreements are the Dispute Settlement Body and Trade Policy Reviews.

7.1. General Agreement on Tariff and Trade (GATT)

The rationale of GATT, which has set multilateral rules for trade in goods, rests on shaping trading system under the conditions of fair and equitable competition. GATT is instrumental in enhancing the pace of trade and escalating investment, production and employment in the sphere of goods.

The four main rules of GATT are:

- Protection the domestic industry by tariff only
- Trade according to the Most-Favored-Nation Clause (MFN)
  This principle of Most Favored Nations (MFN) advocates that treatment extend to one member country should be provided to all member countries.
- National Treatment Rule
  The National Treatment rule prohibits from discriminating between imported products and domestically produced like goods.

GATT has been able to cut and “bind” member countries custom duty rates on imports of goods. The table-3 encompasses the binding of duty rates in the pre and post Uruguay Round. It is discernible from the table that the Developed countries have increased the number of imports whose tariff rates are bound from 78 percent of product lines to 99 percent, where as the developing countries have extended it from 21 percent to 73 and economies in transition have increased their binding from 73 percent to 98 percent.
The government of India under the umbrella of WTO has liberalized imports by removing Quantitative Restrictions (QRs) maintained under the balance of payment cover. QRs were withdrawn on 488 items in 1996, on 391 items in 1997, 894 items in 1998, 714 items in 2000 and the balance QRs on 715 items on 31 March 2001. These items are classified in manner to ITC (HS) classification at the 8 digit level. Action has thus been completed on removal of restrictions on tariff lines (2714 items) notified to WTO under BPO covers. The special Import License (SIL) scheme has also been curtailed. Restrictions still in force only relates to those items as permissible under Article XX and XXI of GATT on grounds such as security, health, safety and moral conduct. India has reviewed these restricted items also and in 2002, it has removed QRs on about 60 items. India’s removal of quantitative and other restrictions on exports mirrors the prescriptions of WTO.

In the recent past quantitative restrictions/packing requirements/registration requirements/MEP have been removed for cotton yarn, butter, pulses, wheat and wheat

### Table 2.3

**The Uruguay Round Increased Bindings**

<table>
<thead>
<tr>
<th></th>
<th>Before</th>
<th>After</th>
</tr>
</thead>
<tbody>
<tr>
<td>Developed countries</td>
<td>78</td>
<td>99</td>
</tr>
<tr>
<td>Developing countries</td>
<td>21</td>
<td>73</td>
</tr>
<tr>
<td>Transition economies</td>
<td>73</td>
<td>98</td>
</tr>
</tbody>
</table>

Source: www.wto.org.
products, non-Basmati rice, coarse grains, groundnut oil, several varieties of agricultural seeds, coir and coir products, hand knotted carpets, woolen carpets, stone boulders, raw hides and skins, aviation turbine fuel, high speed diesel and motor spirit. The condition of export of kerosene and LPG through State Trading Enterprises has also been removed. 19

a. Agreement on Implementation of Article VII of GATT (94) (Valuation of Goods)

Through this agreement, a system is fostered in consonance to commercial realities, which debars the application of indeterminate custom value. India has modified her laws in uniformity with agreement by notification 26(NT)/24.04.1995: Custom Act. Indian exports and imports are to gain from fair and just regime. 20

b. Agreement on Preshipment Inspection (PSI)

The main objective of the agreement is to check the arbitrary ways of PSI companies in valuation of goods. Indian companies can gain from better system, as well as arbitrary action will be debarred.

c. Agreement on Technical Barriers to Trade

The Agreement on Technical Barriers to Trade aims at making it certain those regulations, standard; testing and certification procedures do not emerge as unnecessary stumbling block in the pathway of international trade. Indian government has stimulated Bureau of Indian Standards to follow the International benchmark.
d. **Agreement on Sanitary and Phyto-sanitary Measures** (SPS)

Agreement on Sanitary and Phyto-Sanitary Measures spells out the principles and rules that member countries should accord to administer in import of agriculture and fixed products as to protect human, animal or plant life or maintain health. Most of Indian standards are at par with the International Standards.

e. **Agreement on Import Licensing Procedures**

The Agreement aims at making the mechanism of import licensing more understandable, certain and transparent. Indian System has remarkably improved in regard to import licensing.

f. **Agreement on Safeguards**

The agreement permits member countries to take action against undue import surge injurious to domestic manufacture during the transition period. India has placed the system in Commerce Ministry. The Government of India has introduced relevant Rules and has set up the Directorate General of safeguards under the Ministry of Finance.

g. **Agreement on Subsidies and Countervailing Measures** (ASCM)

Agreement on Subsidies and Countervailing Measures (ASCM) governs the application of subsidies and regulates the actions that countries can take to counter the effect of subsidies. The Agreement applies to industrial products. The Agreement attracts three categories of subsidies (i.e.) prohibited subsidies, actionable subsidies and non-actionable subsidies. The
government of India has set up the Directorate General of Anti-Dumping and Allied Duties for Anti-Dumping Duties and Counter railing Duties under the Ministry of Commerce who are empowered to recommend duties which are in turn notified by Revenue Department of Ministry of Finance.

India's EXIM policy is also following the GATT directives in introducing the duty exemption schemes and has suitably modified them to make them WTO compatible.\(^{21}\)

**h. The Agreement on Anti-Dumping Measures (ADM)**

The agreement permits countries to take measures against imported goods benefiting from unfair trade practices. GATT permits the countries to take action against dumping. Article 15 of the Agreement on Anti-Dumping Measures urge developed country members to take into consideration the special situation of developing country members while considering the application of anti-dumping measures. Indian laws were amended with effect from 01.01.1995 in consonance with antidumping provision in WTO agreement.\(^{22}\)

**i. The Trade Related Investment Measures Agreement (TRIMS)**

The Agreement rests on twin’s objective of fostering the progressive liberalization of world commerce and also elevates the pace of investment across the international realm. Developed countries were provided a term of 2 year to eliminate all distorting measure, developing countries were provided a period of five year; and least – developed countries were provided a phase of 7 years.\(^{23}\)
As a result of the Agreements, the FDI policy framework of India today is one of the most liberal investment regimes. Leaving a few arenas, foreign investment in India is permitted in all sectors. The Agreement has direct bearing on Indian government’s forex and foreign investment cap. The UNCTAD’s World Investment Report 2004, manifests that India has emerged as one of top 10 FDI destinations among developing economies in Asia. India can garner more investment through honing its investment measure in fashion with TRIMS agreement.

j. Agreement on Textiles and Clothing (ATC)

The Agreement on Textile and clothing (ATC) under the Uruguay Round provided for a structured phase-out plan for products incorporated the investments. The trade ambience under the gamut of WTO promises to fetch ample vistas for the Indian textile. India’s share under the WTO ambit is likely to surge from 4 percent to 15 per cent thereby doubling India’s exports to $26 billion by 2020.24

k. Agreement on Agriculture (AOA)

The objective of Agreement on Agriculture (AOA) aims at establishing fair and equitable market oriented agriculture trading system. The reform programs under the Agreement on Agriculture aims at removal of distorting subsidies over a stipulated period of time. The main features of agreement are Market Access, Domestic Support Measure and Measure on Reduction of Direct Export subsidies.25 The industrial countries are to reduce their tariff binding by an average of 36 per cent
within six years (from 1995) while all developing countries have to reduce tariff by an average of 24 per cent over a period of ten years. Least developed countries are not required to make any commitments for reduction of tariffs on agricultural products. On agricultural tariffs, developing countries have the flexibility for revealing maximum ceiling binding. India has indicated ceiling binding of 100 percent on primary products and 300 percent on edible oils. AOA deals with three categories of subsidies. (a) Prohibited subsidies (b) Actionable subsidies (c) Non-actionable subsidies. Under subsidies, the industrial countries are required to reduce over six year, the volume of subsidized agricultural exports by at least 21 per cent and the value of subsidies at least by 36 per cent, the respective figure for developing countries are 14 per cent and 24 per cent. All countries are bound not to introduce any new subsidies.26 The current pause in WTO is mainly due to agriculture subsidies. As per the study of India-vision 2020, India has an opportunity to generate an additional 150-200 million jobs, provided that the current stalemate is iron-out.

1. Agreement on Rules of Origin

Rules of Origin are the criteria used to define where a product is made. Recently, India had registered protest at WTO against the criteria that confer origin variation between similar products and processing operations.27

7.2. General Agreement on Trade in Service (GATS)

The fast end of the last century witnessed upsurge of service sector. Recognizing this escalation of services at the
global business, the Uruguay Round constituted group of negotiations for services. The outcome on negotiations led to formation of General Agreement on Trade in services (GATS). GATS is one of cardinal pillar of WTO. GATS consists of (a) A framework of general rules and disciplines (b) Annexes addressing special conditions relating to individual sectors and (c) Liberalization commitments specific to the service sectors and sub sectors listed in each country’s schedule. GATS cover 12 services sectors and over 150 sub-sectors under its ambit. GATS covers all services except these supplied in the exercise of government authority. GATS have a “positive-list” approach that permit WTO members to take on obligations in the sectors of their choice.

A distinctive hallmark of GATS agreement relates to four mode of supply through which service may be exchanged.

(a) Mode 1 (Cross Border Supply) refers the delivery of services not requiring the physical movement of supplier or consumer
(b) Mode 2 (consumption Abroad) refers to movement of the consumer to the country of the supplier.
(c) Mode 3 (Commercial Presence) refers to services sold in the territory of a member by foreign entities that have establishment a commercial presence.
(d) Mode 4 (Presence of Natural Person) refers to provision of services requiring the temporary movement of national persons.

Among all the articles of GATS, MFN, Market Access and National Treatment are the most important provisions in driving the pace of liberalization of trade in services.
Under the WTO ambit, the selection of service by India is influenced in terms of exports, capital inflows, technology and employment. India has scheduled in six-service sector encompassing 33 service activities. During the 1990s the Indian Service Sector grew at more than 17 per cent per annum compared to world average growth rate of 5.6 per cent (WTO 2003).\textsuperscript{30} India should leverage its potential by honing all those services in which it has potential to display her forte. Thereby India's services can carve niche in world trade of services.

7.3. Trade Related Intellectual Property Rights (TRIPS):

Ideas and knowledge have become driving paean in modern trade. Books, films, computer software and online-services have fetched market on account of information and creativity they contain. Thus it become relevant those creators are provided rights to prevent others from using their inventions, designs or other creation. To use those rights, the consumers have to negotiate payment. These are called “Intellectual Property Rights”. The WTO’s TRIPS Agreement has introduce new internationally agreed trade rules for enforcement of international property rights, thereby have ushered more order and predictability along with setting the disputes more systematically. The Agreement on TRIPS complements the agreements on the protection of intellectual property rights developed by the World Intellectual Property Organization (WIPO). The Agreement also makes it compulsory that countries incorporate the MFN and nations treatment.
As India has emerged as a knowledge economy, TRIPS provides a springboard through which the various paths breaking innovation can be patented and large foreign exchange can be earned. Fuel Cells, Genetic engineering and robotics are promising areas where India can leverage her potential.

**Coverage of TRIPS Agreement**

The coverage of TRIPS Agreement applies to copyrights, Trademarks, Geographical Indications, Industrial Designs, Patents, Layout Designs and Integrated Circuits, and Undisclosed Information.

**a. Copy Rights**

The subject matter of copyrights covers under its ambit, works in literacy works, scientific and artistic domain. Copyright also protect software and data base. Neighboring rights are provided to phonogram producers, performers and broadcasting organization. The TRIPS Agreement lays a minimum standard for duration of copyright protection.

India’s copy right law, laid down in the Indian copyright Act 1957 as amended by copyright (Amendment) Act, 1999 communicates the alliance of India to Trips Agreement.

**b. Trademarks**

The agreement spells out types of signs eligible for protection along with grant the minimum rights on their owners.

The Indian government has brought change by passing of Bill in parliament to replace Trade Merchandise Marks Act 1958 as notified in Gazette on 30.12.1999.
c. Geographical Indications

Geographical Indications brings into picture the special attributes of products, which rest on account to products, geographical origin. The TRIPS agreement embraces special provision for such product which overseas the use of place names to identify products thereby arrest unfair competition.

On Indian landscape, a new law for the protection of Goods (Registration and Protection) Act, 1999 has been validated by parliament and proclaimed on 30.12.1999 and rules formed there under are appraised on 08.03.2002.33

d. Industrial Designs

The TRIPS Agreement affords the protection of Industrial design for 10 years. In India a new design law rescinding the Design Act 1911 has been validated by parliament in 2000. The new force has been effective from 11.5.2001.34

e. Patents

The TRIPS agreement provides patent protection for inventions for at least 20 years. By ushering the patent (Amendment) ordinance 2004 on December 31 2004, the Indian government has complied with the deadline laid by WTO and thereby has become a member in international system of Intellectual property rights.35

f. Integrated Circuits layout designs

The TRIPS protects to layout designs that are the results of their creators’ own intellectual efforts. The exclusive rights involve the right of reproduction, the right of Information, and
sales for trade purpose. The TRIPS agreement provides cover for layers.

g. **Undisclosed Information and trade secrets**

The TRIPS agreement covers those trade secrets or know-how that has potential of commercial value and entails protection against disclosure, or to anti-commercial purposes.

In addition to the above, in acknowledgement to its obligation under TRIPS, the Government of India has enacted the following acts.

1. The Trade Marks Act, 1999
2. The Geographical Indication of Goods (Registration and Protection) Act 1999

7.4. **WTO Main Arsenals**

a. **Trade Policy Review Mechanism (TPRM)**

The Trade Policy Review mechanism of WTO contemplates to get inside of trading policies as well as practices of member-countries. TPRM also aims at making better adherence of WTO rules, disciplines and commitment, transparency by member countries.

b. **Understanding on Rules and Procedures Governing the Settlement of Disputes**

The constitution of Dispute Settlement Body (DSB) by WTO is central in adding sinews to its mechanism. The WTO garners more respect owing to settling disputes that makes the trading system more transparent and certain.
The last ten years have been defining in terms of India’s integration into the global trading order. One of the first and most contentious cases that India was involved soon after its accession to the WTO was a case concerning TRIMs on its auto policy. At WTO dispute panel India has been directly involved in both as a complainant or respondent. Some of the cases where India has been complainant and respondent have been illustrated below:

**Table 2.4**

**Involvement of India as Complainant**

<table>
<thead>
<tr>
<th>Reference No.</th>
<th>Respondent</th>
<th>Third Party</th>
<th>Matter</th>
</tr>
</thead>
<tbody>
<tr>
<td>WT/DS 34</td>
<td>Turkey</td>
<td>Hong Kong, Japan, Philippines, Thailand, United States</td>
<td>Restriction on imports of textile and clothing products</td>
</tr>
<tr>
<td>WT/DS 141</td>
<td>European Community</td>
<td>Egypt, Japan and United States</td>
<td>Anti-dumping duties on imports of cotton type bed lines</td>
</tr>
<tr>
<td>WT/DS 206</td>
<td>United States</td>
<td>Chile, European Communities and Japan</td>
<td>Anti-dumping and counter vailing measures on steal plate from India</td>
</tr>
</tbody>
</table>


**Table 2.5**

**Involvement of India As Respondent**

<table>
<thead>
<tr>
<th>Reference No.</th>
<th>Complainant</th>
<th>Third Party</th>
<th>Matter</th>
</tr>
</thead>
<tbody>
<tr>
<td>WT/DS 50</td>
<td>United States</td>
<td>European community and its member</td>
<td>Patent Protection for Pharmaceutical and Agricultural Chemical Products</td>
</tr>
<tr>
<td>WT/DS 79</td>
<td>European Communities</td>
<td>United States</td>
<td>Same as above</td>
</tr>
<tr>
<td>WT/DS 90</td>
<td>United States</td>
<td>-</td>
<td>Qualitative restriction on imports of agricultural, textile and industrial products</td>
</tr>
</tbody>
</table>

7.5. Plurilateral Trade Agreements

The Agreements on goods, services and intellectual property rights are grouped together under the heading “Multilateral Agreements”. But there are some agreements in form of Plurilateral agreements whose acceptance is not mandatory to WTO membership.

There were four Plurilateral Agreements on (a) Public Procurement (b) Trade in civil aircraft (c) International Dairy Products (e) International Bovine and Meats Products

The International Dairy Agreement and International Bovine Meat Agreement were abandoned at the end of 1997

8. Cross Cutting and Emerging Issues Between Developed and Developing Countries at WTO:A Focus On India

The constitution of WTO mandates the organization to overseas the proper implementation of Uruguay Round Agreements, and append newer issues to its documents. Number of issues has risen in recent time. Some of the burning issues have been enumerated below

(i) Regional Economic Grouping
(ii) Trade and the environment
(iii) Trade and Investment
(iv) Competition Policy
(v) Transparency in government procurement
(vi) Trade facilitation
(vii) Electronic Commerce
(viii) Trade and Labor rights
(a) **Regional Economic Grouping**

It is astonishing to note that under the multi-trade ambit, only 40 per cent of world-trade are routed through multilateral trading, whereas over 60 per cent of world trade are through RTAs. The WTO General Council has constituted the Regional Trade Agreement committee; with the aim to sift through whether the current mushrooming of these configurations shall facilitate or act as road block to multilateral trading system.

**b. Trade and Environment**

The developed countries are trying to foist environmental standards on the internationally traded goods and services. The lurking fear of the developing countries is that the developed economies may succeed in erecting a non-tariff barrier to the flow of multilateral trade in the guise for a link between environment and trade concerns. Specific areas that are of interest to these countries are: (i) elimination of subsidies that contribute to over capacity in the fishers sector; (ii) further reform of agricultural subsidies and (iii) the elimination of restrictions on trade in‘environmental goods and services. WTO has constituted a Trade and Environment Committee. The committee oversees that the measures taken by member countries in the name of sustainable development do not act as stumbling block for the exporting countries. Thus the committee aims at making WTO tenets in fashion with trade measures necessitated to safe guard the environment. The committee also investigates the linkage between trade liberalization and the protection of the environment.
c. **Trade and Investment**

At 1996 Singapore Ministerial Conference, ministers from WTO member countries reached at a decision to form a working group on trade and Investment. The proposed Multilateral Agreement on Investment seeks to set up mandate to invest, as a legal right and necessitate MFN and National Treatment to all foreign Investments regardless of extent and nature of investment and the areas involved. The developing countries too have apprehension in this agreement.

d. **Trade and Competition Policy**

Competition policy encompasses laws and regulations focusing at maintaining fair competition by debarring restrictive business practices among private enterprise. Under this agreement, developing countries fears that they will be forced establish domestic competition policies and make certain type of laws through which the distinctions that favor local firms and investors would not be allowed.

e. **Transparency in Government Procurement**

Under the Agreement on Government Procurement Policy, the developed countries wants to embark a process in the WTO whereby their companies are able to fetch lion share of the lucrative business and contracts for projects of the public sector in the developing countries. The aim of the agreement is to bring government spending policies, decision and procedures of all member countries under the umbrella of the WTO, where the principle of ‘national treatment’ will apply. The developing countries are against this agreement as their governments would
no longer be able to give favor of advantages to citizens or local firms. The Singapore Ministerial Conference had constituted a working group to assess on transparency in Government procurement practices in national policies of member countries.

f. Trade facilitation

The 1996 Singapore ministerial conference directed the WTO Goods Council to inspect work on the simplification of trade procedure with a view to facilitate the ambit for WTO rules in the area.

The developing countries are against this agreement as they are unable to understand the extend that has to cover under the said agreement.

g. Electronic Commerce

The WTO members adopted a declaration on e-commerce at Geneva Ministerial in 1998. The General Council also adopted a work-program on September 25, 1998 through which issues relating to e-commerce were to be investigated by council for Trade in Services Council for Trade in Goods and TRIPS Council.

h. Trade and Labor Rights

Some developed countries are advocating that matter relating to labor standard should be included under WTO ambit. On the other hand developing countries including India are deadly against this issue. The developing countries apprehension is that the inclusion shall blunt their labor competitiveness in the sphere of international trade.
Developed countries were the one to place these issues before the WTO. Many of these issues (except e-commerce) have made a great divide between developed and developing countries. Developed countries want that developing countries should ratify these emerging areas. Contrary to that, developing countries including India are deadly against to start negotiations on these issues. Developing countries have made it known that these areas entail galore studies for negotiations, which are hitherto absent. Developing countries have made it clear negotiations on these areas cannot materialize until they study their implications on their economy.

9. Conclusion

In this chapter an earnest endeavor has been made to incorporate the multifarious angles pertaining to the most world wide trade negotiations ever accomplished. The chapter has shredded light on the various agreements germinated and appended in the WTO constitution. A look at the WTO constitution manifests that it's rules and regulations are for the trade and commerce encompassing the goods, services and intellectual property. These agreements designed under the architecture of the WTO, acts as pedestal in fostering the augmentation of global trade and investment sans discrimination. The beeline of the majority of the developing economies at the WTO landscape corroborates that the global juggernaut has been accorded mandates to act as escorter for the developing economies in their quest to be at par with the developed economies at the global rung of trade and investment. The Doha Development Agenda (DDA) is principally been
conceived for the welfare and alleviating the economy of developing countries. The recent World Bank calculations reveals that the gains from multilateral trade liberalization under the WTO Doha Development Agenda could figure out to be more than US$ 800 billion by 2015, with more than half leaning to developing countries. This piece of statistics is self–axiomatic in manifesting the leverage that the developing economies can garner through WTO. The cross-cutting issues that have brought the stalemate at the various ministerial conferences are the bone of contentions between the developed and the developing economies. These issues need to be obviated in order to undo the temporary pause that has stemmed up in the ongoing trade negotiations at the WTO.

India, being a founder member country of WTO has tailored its pace of liberalization mirroring the necessitated prescriptions of WTO. In sequence, India has also steadily embraced the galore guidelines of this global trade juggernaut pertaining to the arenas of trade in goods, services and intellectual property rights and thereby has substantially curtailed her import duties. The WTO is a forum where India can iron-out the problems and discriminations that it encounters at the higher echelon of trade and investment. It is sanguinely perceived that trading under the WTO umbrella shall make India accomplished the milestones carve-out by Goldman Sach’s study titled “DREAMING WITH (BRICs): THE PATH TO 2050” and secondly by “INDIA VISION – 2020” a brainchild of India’s Planning Commission.
The go home message emanating from the foregoing discussion is that the Indian government should undertake periodic review of how the agreements are operating at the domestic turf and simultaneously strive to find out the road blocks faced by the states and local bodies in the implementation of WTO guidelines. Central government of India should encourage the domestic business communities to provide the feed back on the practical problems that it encounter after India' imbibing of WTO commitments. These steps shall assist India in improving its dexterity at the table of on-going trade negotiations held under the WTO ministerial conferences.

Among those agreements that Indian has ratified at the WTO arena, the subscription to GATS has maximum potential to leverage not only India’s service sector but to economy on a whole. Under the Hong Kong Ministerial conference that took place from 13-18 December, negotiators from 149 countries came out with a draft text that proposed to end farm export subsidies either by 2010 or by 2013. Though the 44 page draft, however, remained silent on for finalizing the modalities. The text gave two dates for ending export subsidies-2010, and the other five years after the implementation of the agreement, which starts in 2008. This clause will give rich nations time till 2013 to phase out subsidies. The EU finally agreed to do away export subsidies on agricultural products by 2013. The developing countries including India were able to forge groupings such as G-20, G-33 and the much larger G-110 at Hong Kong. Developing countries including India, won an important concession in being allowed to reduce tariffs on industrial goods.
less than that of developed countries. As it has been decided that abolition of export subsidies for agriculture will in 2013-eight years from now. The need of the hour is that the developing countries should form a substantial group, so that the developed countries are made to comply with, when the time comes.

Under this backdrop, the subsequent chapters are predominated by the theme of services in context to India and WTO. The ensuing chapter thread bare examines the conceptual part of services and thereby simultaneously scans the trade and investment theories and their relevance on the burgeoning growth of services at the global echelon of trade and investment.

10. References:

3. Ibid, p. 5.
6. Ibid, p. 3.
8. Ibid, p. 4.
10. Ibid, p. 23.
11. Ibid, p. 107..
15. Ibid, p. 74.
23. "What is on the Table at Cancun Ministerial Meet?" (2003), The Economic Times, New Delhi, June 22, p.3.
30. Ibid. p174
31. Ibid. p174
32. Ibid. p174