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AIM AND METHODOLOGY
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This chapter describes the significance and scope of the study, the objectives as well as the methodology adopted and limitations of the study and the comprehensive literature review with special respect to India and the current literature on the subject.

SIGNIFICANCE OF THE STUDY

The WTO is officially defined as 'the legal and institutional foundation of the multilateral trading system'. Unlike GATT, the WTO is a permanent organization created by international treaty ratified by the governments and legislatures of member states. As the principal international body concerned with solving trade problems between countries and providing a forum for multilateral trade negotiations, it has a global status similar to that of the International Monetary Fund and the World Bank.

The study is also expected to explore the current WTO dispute settlement system, focusing on the critical stage of implementation and enforcement and the practical problems that may arise using the remedies available. The main purpose is to pay attention to the actual effect in practice when using the remedies
available and how the outcome affects different members of the WTO in different ways.

The study becomes important as it illustrates the role of the WTO amidst the globalisation in the prevailing agricultural crisis with specific reference to the Agreement on Agriculture (AoA) clause of the WTO Charter that determines the nature of agricultural trade.

The study acquires special significance as it deals with greater responsibilities of the WTO with reference to 'fair trade' and 'free trade'. The study has more implications while it deals with the process of outcome arising out of Doha declaration with contribution to global democratization.

The World Trade Organization has occasionally been criticized for being ruled by its wealthiest and strongest members and not taking into account the views and concerns of weaker economies. In many of these economies, agriculture is a major source of income. Therefore, it is perhaps vital for these countries that the WTO is efficient enough to deal with issues relating to international agricultural trade. Thus the present study aims at analyzing to what degree the WTO appears to have the capacity to deal with agricultural issues, which have arisen, in developing countries, partly due to the organization's trade agreements and regulations.
THE PRESENT STUDY

A number of global economic Institutions have been formed to carry out multilateral free trade in a world of multi-lingual and multi-religious community in order to boost the world trade and help the developing countries to improve their economy. The main Institutions that form part of global economic Institutions are General Agreement on Tariff and Trade (GATT) or, World Trade Organisation (WTO), United Nations Conference on Trade and Development (UNCTAD), International Monetary Fund (IMF) and the International Bank for Re-construction and Development (IBRD)-World Bank. Hence, WTO provides a forum to the member countries where international trade problems can be discussed and training opportunities are enlarged.

World trade has grown amazingly faster than world GDP in the period from 1950 to 2006. While in 2006 real world output was about nine times higher than in 1950, trade increased more than 20-fold during the same period. This rapid growth in trade is related to the ongoing process of liberalization that took place under the auspices of the GATT/WTO. Since its foundation in 1947, GATT/WTO organized seven rounds of Negotiations, which among others reduced ad valorem tariffs on industrial products from over 40 per cent to less than 4 per cent on average. Meanwhile, no less than 153 countries participate in the World
Trade Organization with further countries pushing for WTO membership. It therefore comes as no surprise that the GATT/WTO is believed to have a major impact on world trade. Recently, this view has been challenged. Rose (2004, p. 110)\(^1\) estimates the influence of GATT/WTO on international trade in a gravity type approach and ends that membership in the GATT/WTO seems not to have an economically or statistically significant effect on trade. This results indicate that the trade patterns of GATT/WTO members are not significantly different from those of non-members. Instead, other institutional variables affect average bilateral trade flows significantly. In order to implement the final Act of Uruguay round agreement of GATT the World Trade organization was established on January 1, 1995.

The Final Act at a meeting in Marrakesh, Morocco on 15\(^{th}\) April, 1994 which confirmed that the Uruguay Round would strengthen “the world economy” and led to more trade, investment, employment and income growth throughout the world. The WTO agreement contained some 29 individual legal texts covering everything from agriculture to textiles and clothing and free services to Government procurements, rules of region and notwithstanding proper right.

\(^{1}\) Rose Andrew, *Does the WTO make trade more stable?* National Bureau of Economic Research:2004
India is one of the founder members of the WTO among the 104 members. The GATT was not an organization but it was only a legal agreement. On the other hand WTO is designed to play the role of watch dog in the spheres of Trade in goods trade in services, foreign investment, intellectual property rights etc.,

The birth of WTO has paved the way for the reduction of duties, tariffs, non-tariff barriers like quotas and controls. This phenomenon added new dynamism to the international businesses environment. WTO has enlarged the market access opportunities and provided efficient rules for undistorted competition among the world countries. These aspects would help the developing countries which have liberalized and globalised their economies to increase their exports. It is estimated that, the increase in World income due to liberalization of global business in goods would range between $110 billion and $ 510 billion annually by 2005.

WTO contributes to strengthening the institutional frame work for business relations among member countries. The expanding world trade is expected to provide for the increase in productivity, economies of scale, technology transfer, diversified trade in terms of countries and products.

So far, enough work has not been carried out on WTO and its implications on various sectors of Indian economy and the dispute
settlement mechanism of the WTO; hence, a need is felt to carry out a detailed research on these aspects.

OBJECTIVES OF THE STUDY

- To study the origin, structure, role and responsibilities of the WTO.
- To study and analyse the dispute settlement mechanism under WTO and critically examine use of the dispute settlement procedures for India.
- To study the impact of various WTO Agreements on Indian economy.
- To examine the potential impact of WTO on Agriculture and to provide a brief description of the status of WTO negotiations in agriculture and the Indian stand on some of these issues.
- To draw summary and conclusions.

RESEARCH METHODOLOGY

The data needed for the study were collected mainly from the secondary sources. The secondary data sources included published literature available in the form of journals, periodicals, magazines, newspapers, books, Acts and various Reports.

The data were also collected from the Business Associates like Confederation of Indian Industry (CII), Federation of Indian Chamber of Commerce & Industry (FICCI), Association of Chamber of Commerce & Industry (ASSOCHEN) and World Chamber of
Commerce & Industry. The data were also further collected from the institutions like Agriculture Processed Food Products Development Authority (APEDA), International Trade Centre of United National Conference on Trade and Development (UNCTAD), World Trade Organisation (WTO), Common Wealth Secretariat, World Bank, International Monetary Fund (IMF), Food & Agriculture Organisation (FAO), Agricultural Export Promotion Council and Apparel Export Promotion Council. Centre for WTO Studies- Indian Institute of Foreign Trade (IIFT), Government of India Ministry of Commerce & Industry-Department of Commerce. Organisation for Economic Co-Operation and Development (OECD), International Centre for Trade and Sustainable Development (ICTSD), United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP), World Intellectual Property Organisation (WIPO), etc. It has been brought out that India is more of a gainer than a loser from the implementation of WTO since its inception.

DATA ANALYSIS AND INTERPRETATION

The Data collected were checked, processed, tabulated and analysed.

LIMITATIONS OF THE STUDY

- The study is restricted to the WTO and its boundaries
- Published data is the main source for the analysis
The work is mainly centered around the theoretical rules and interpretations, and as such, the statistical kinds of data were limitedly used in the study.

REVIEW OF LITERATURE:

There have been a large number of studies on the probable impact of provisions under WTO and IMF-World Bank sponsored economic reforms. While many of the earlier studies had concentrated on analysing different provisions and their possible impact on Indian agriculture, a host of studies have come up to discuss inappropriateness of the measures taken up by the IMF, the World Bank and the WTO under the name of globalisation, from the perspective of development of the developing countries. Many of the studies have attempted to quantify the impact of multilateral trade reforms of agricultural sectors of the developing countries. Filings and outcomes of dispute settlement cases at both the GATT and WTO have been of interest to a number of researchers. In particular, three primary questions have emerged in the previous literature. Obviously, the determinants of the actual policy outcomes of disputes and, in particular, the level of concessions made by the defendant, are of primary interest to many researchers. However, this research is more closely tied to two questions regarding the filing and escalation of disputes: what determines whether a country brings a complaint to the
GATT/WTO dispute settlement system and why are countries able to settle some disputes while others escalate to a dispute settlement panel ruling.

In addition, some other previous research studies indicate that a number of country-specific factors significantly impact the likelihood of a country filing a dispute with the WTO. For example, Reinhardt (2000) finds that democracies initiate, and are targeted in, more disputes than other countries, particularly developing countries. His estimates also indicate that countries that have a high degree of trade reliance on the defendant country are more likely to initiate disputes and that countries appear to retaliate against those countries that have initiated disputes against them in the past by initiating their own disputes. Many of them specifically looks at country’s decisions to bring antidumping cases to the WTO dispute settlement system and finds that the size of the economic market in the defendant country as well as the complainant’s capacity to retaliate using DSU-authorized sanctions significantly impacted the likelihood of bringing a dispute to the WTO.

A number of papers have attempted to investigate why so many dispute settlements under both the GATT and WTO are

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settled, particularly in light of the fact that GATT has little enforcement power. Reinhardt (2001), for example, develops a theoretical model in which the defendant wants to avoid retaliation by the complainant, and thus often concedes prior to a panel ruling with a settlement offer that may be less costly than the potential result if the case proceeds to a panel.

Using disputes filed under the GATT 1947 agreement, Busch (2000) estimates the determinants of the probability of requesting a formal dispute settlement panel, as well as the probability of the defendant offering concessions at the consultation stage and at the panel stage. The author is particularly interested in whether the 1989 improvements to the GATT dispute settlement process, in which the defendant could no longer block the formation of a panel, resulted in more concessions and whether democratic regimes are more likely to request a panel or offer concessions. He finds, surprisingly, that the 1989 improvements had little impact on the dispute settlement process. Democratic countries are more likely to offer concessions prior to the formation of a panel and more likely to request a formal panel in case bargaining fails. Busch also finds that the likelihood of concessions falls with the number of complainants in a particular case and the level of openness of the defendant. Moreover, cases brought by developing countries are more likely to result in a formal panel, while the
probability of concessions made at the panel stage falls with the ratio of the complainant's to the defendant's bilateral trade dependence. Busch and Reinhardt (2003) also find that developing countries are less likely to reach a settlement in their disputes, which is one reason why these countries are less likely to secure concessions from the defendant.

They conclude that developing countries are less able to argue legal points during the consultation phase, thus failing to signal that the issue will be pushed to a successful conclusion at a dispute settlement panel.

GENERAL AGREEMENT ON TARIFF AND TRADE (GATT)

J.C. Aggarwal and N.K. Chowdhry (1994) concluded that the Uruguay Round of GATT on multilateral trade negotiations has far reaching implications for the future of international trade. S.K.Bijalani (1994) allayed fears like India is likely to lose its sovereignty return of neo-colonialism and domination of MNCs with the emergence of WTO.

Chakaravarthi Raghavan (1994) in one of the overview of the results of market access package of the Uruguay Round provided by GATT agreement confirms that major beneficiaries are the

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5 Chakaravarthi Raghavan, “*WTO meet to launch MIA*”, *The Tribune*, 6 November 1996
industrialized countries and that the benefits to developing countries will be much less.

P. D. Sharma (1994) stated that in the world trade multilateralism, regionalism, bilateralism and unilateralism are all happening at the same time. The Uruguay Round of the GATT has completed.

Prem Kumar said that some areas of Dunkel text, which represents the kernel of the Uruguay Round come into conflict with India's constitution especially the Directive Principles of State Policy. Thus the domain of domestic policy is being subjected to international security because of which conflicts may arise between our socio-economic and political objectives and international commitments. In doing so, it has disregarded the minimal essential need to protect the national interest.

Balraj Mehta (1993) stated that Government has rushed recklessly to fulfill what it regards as its international obligations under the GATT treaty.

V.M. Tarkunde (1994) opined that GATT negotiations were aimed at reducing tariff and non-tariff barriers to the exchange of goods in the course of international trade.

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7 Prem Kumar, "The Dunkel dangers: conflict with India's socioeconomic objectives likely", India Express, 3 January 1993
According to A.V. Ganesan (1994) the 'Final Act' strings together 25 agreements, declarations and decisions in the goods sector alone, including the agreement on Trade Related Investment Measures (TRIMS); the General Agreement on Trade in Services (GATS); the agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS); the agreement on Disputes Settlement on Textiles and Clothing, Agriculture and agreement on WTO.

Ashok Damodaran and Agha Zafar (1994) while commenting on the Uruguay Round after India had signed the Final Act said that after a long winter of discontent, opposition parties ranging the left to the far right have suddenly discovered a spring in their step.

A.T. Dudani (1994) discussed the dangerous consequences of the harmonization of standards clauses in GATT and the negative impact of the GATT on TRIPS, TRIMS and GATS.

B.M. Srivastava (1994) highlighted the controversy amongst political parties over the decision of the Union of India to sign the treaty arising out of Uruguay Round of Negotiations has now reached the Supreme Court.

11 Damodaran Ashok and Zafar Agha, Damning Dunkel, India Today, 15 April 1994, pp. 51-55
Sanjay Baru (1993)\textsuperscript{14} viewed India’s consent to Uruguay Round as a surrender to external pressure as many domestic critics allege but it has been one of an absence of a strategic vision of where India’s interests lie at the turn of the century and how it must defend them.

\textbf{Opportunities and Challenges:}

A.V. Ganesan\textsuperscript{15} described the opportunities that are open to us and the challenges that we have to face in competitive world in the light of WTO agreement. Nirmal Sandhu (1993)\textsuperscript{16} viewed in totality the Uruguay Round success is a victory of collective human effort towards free trade. Bibek Debroy (1996)\textsuperscript{17} forecasts that India’s exports can obtain an additional competitive advantage under GATT. V.C. Shulka (1994)\textsuperscript{18} stated that GATT which entered into force in January, 1948 is the only multilateral instrument that lays down agreed rules for international trade and overpowered with the interests of a few developed countries like USA and EU.

Pranab Mukherjee (1994)\textsuperscript{19} appreciated the basic objective of GATT that is to provide a liberalized trading arrangement among

\textsuperscript{14} Baru Sanjaya, “Survival instincts”, \textit{Economic Times}, 13 July 1993
\textsuperscript{15} Ganesan A.V. The GATT Uruguay Round Agreement Opportunities and Challenges, \textit{RGICS} Paper No. 8, 1994. p. 24-25
\textsuperscript{17} Debroy Bibek, \textit{Beyond the Uruguay Round: The Indian Perspective on GATT}, Response Books, July, 1996, pp. 13-29.
the contracting countries and to discipline and encourage orderly development of trade.

A.M. Khusro (1994)\textsuperscript{20} called for statesmanship, rather than political upmanship in the objectivity of GATT. Rao P.V. Narsimha\textsuperscript{21} stated that India can definitely march ahead in the changed economic environment and it must be ready to benefit by the opportunities that have been through open in the post GATT situation.

Chatha A.S.\textsuperscript{22} opined that India could reverse the trend in its declining share of world exports from 2\% per cent in 1947 to 0.5\% per cent in 1994 by various measures enshrined in WTO.

**WORLD TRADE ORGANISATION (WTO)**

Barry M. Richman and Melryn R. Copen\textsuperscript{23} stated that the WTO had more teeth than GATT. No member country can bully the other anymore and discriminate as it was in GATT. Trade disputes can now be settled with the good offices of WTO.

Rao Bhanoji (1994)\textsuperscript{24} expressed doubts about feasibility of bringing together North American and Asia into a unified economic community such as the European Union (EU). The only hope for long term global trade for APEC can be from WTO.

According to Ahluwalia (1996)\textsuperscript{25} criticized the opponents of the WTO that they had chosen to ignore the great advantages that will accrue to India by being member of the multilateral WTO and exaggerated out of proportion the disadvantages.

Shankar Jha (1994)\textsuperscript{26} stressed for economies will now the supremacy of the WTO over the powerful economies and not resort to unilateral pressures against poor nations.

Priya Ranjan Das (1995)\textsuperscript{27} concluded that India secured major gains in the supply of professional service providers to the key markets of the US and the European Union in the World Trade Organisation.

**ARGICULTURE**

**Facts:** The agreement relating to agriculture is made up of several elements, which seek to reform trade in agriculture and provide the basis for market oriented policies thereby improving

\textsuperscript{25} Ahluwalia S.S., “GATT will do good to India”, *India Express*, 13 July 1996.
\textsuperscript{27} Priyaranjan Dass, “Major gains for India in WTO services agreement”, *the Tribune*, 28 July 1995 p. 12
economic cooperation for importing and exporting countries alike. The root cause of distortion of international trade in agriculture is the massive domestic subsidies given by industrialized countries to their agricultural sector over the decades. This, according to A.V. Ganesan, has led to excessive production (as well as of import restrictions to keep out foreign agricultural products from their domestic markets) and its dumping in international markets. The obligations and disciplines incorporated in the agreement on agriculture relate to:

(a) domestic subsidies:
(b) export subsidies including volume of subsidized exports;
(c) minimum market access commitments; and
(d) Food stockholding/food aid operations.

Kainth Gursharan Singh (1996)\textsuperscript{28} demanded a fresh look into the policy framework for agriculture within the WTO negotiations. According to Mitra Kanti Soumya (1994)\textsuperscript{29} the present world trade in agriculture commodities is in the region of $300 billion, and the likelihood is strong that this will further increase owing to the new trade environment ushered in by greatly vary.

\textsuperscript{28} Kainth Gursharan Singh, ed. \textit{Export Potential of Indian Agriculture}, Regency Publications, 1 November 1996, pp. 25-42

\textsuperscript{29} Mitra Soumya Kanti "US and GATT: Anticipating failure", \textit{Economic Times}, 18 November 1993
Narinder Pani (1993) concluded that major gain of Uruguay round has been the opening of markets for agricultural products as well as a reduction in export subsidies for farm products in developed countries. This opens up the possibilities of exports of several products from low wage agriculture.

Mr. Pranab Mukherjee stated that the reduction in export subsidies on agriculture by developed countries will make Indian agricultural exports more competitive in world markets. It may be mentioned that despite their strong reservations regarding permitting the imports of rice, even countries like Japan and South Korea agreed to allow market access for rice to other exporting countries.

Manmohan Singh felt that as per the GATT agreement, the developed countries will do away with the quota system for textile imports over the next ten years and will also reduce the farm subsidies. The GATT accord will give a major boost to the Indian textile industry and agriculture. He clarified that though India had also agreement to reduce import tariffs in general, it had retained 100 percent import duty on agricultural products, 150 per cent on processed food and 130 percent on oils.

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30 Pani Narender, “Pluralism in managing free trade” Economic Times, 14 July 1995
31 Mukherjee Pranab, “Alternative to Live in a cocoon and shut from the world”, Financial Express, 2 January 1994
32 Manmohan Singh, towards commercialization of Agriculture, Key note Address at the National Conference on Agro Exports organized by APEDA and CII in Chandigarh. 3 November 1996.
Textiles & Clothing

Chowdhry and Aggarwal explain that Uruguay round has far reaching implications for the future of international trade. India made a commitment to reduce duties on 17 specific items in the textile sector from 85 per cent to 40 per cent.

Bibek Debroy observed that the USA and European Union have driven a hard bind on India to progressively and steeply impose cuts in tariffs by the years 2000, on fibres, yarns, fabrics and clothing in return for a 20 per cent increase in quotas mainly for handloom and power loom exports.

Kainth Gursharan Singh (1996) said that textile sector remained beyond the scope of GATT in the first 7 rounds. Even in the 18th round separate treatment was given to textile and clothing. Vivek Bhati (1994) concluded that India has suffered a grave setback in textiles. However, the loss of opportunity in textiles could be made up in other goods. The liberalization of trade in goods brought about by the new treaty opportunities to India is the biggest gain and outweighs all the costs imposed by the treaty.

Dutta Ela (1995) found that after a year of WTO negotiations in 1995, India secured almost a 20 per cent increase over its previous textile export quota to the United States. Now the struggle is on to supply quality goods to the American markets to maximize the profits even with the limited and relatively smaller quota that Indian textile manufacturers had in the American market.

Mukherjee Pranab disclosed that India has given a commitment, under the GATT agreement, to reduce the average import tariff levels on 17 textile products from the current 85 per cent to about 40 per cent. Nair D.K. suggestions that under the GATT accord, apart from multi-fibre arrangement (MFA) quotas which are to be phased out in 10 years, bilateral quotas will also be phased out on product by product basis in three years – stages of three, four and three years. Mehra R.S. opines that phasing of tariffs and removal of quantitative restrictions are equitable and fair since they will ensure that the domestic textile industry gets time to adjust itself by modernizing its manufacturing base.

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39 Nair D.K., "Keep Guard against non-tariff barriers" *The Tribune*, 30 March 1995
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ANTI-DUMPING

Gupta R.K.\textsuperscript{41} observed that with the globalization of markets, the general lowering of customs tariffs and the gradual removal of non-tariff barriers, the observance of fair trading practices has assumed far greater importance. Domestic industries need to protect themselves from dumped imports and exports need to safeguard their interests against undue protective measures resorted to by importing countries. Anti-dumping and countervailing law and procedures constitute the most important non-tariff barriers in these circumstances.

Export Import (EXIM) Bank of India\textsuperscript{42} studied the likely significant beneficial impact of the WTO agreement on exports and foreign investment. It adds that benefits would not accrue immediately. The study further points out that it is in the area of non-tariff barriers that the Uruguay Round Agreement has made it more difficult for industrialized countries to initiate anti-dumping procedures, countervailing duty, investigations or safeguard measures. The Government acquired powers to levy anti-dumping duty for five years with retrospective effect under the ordinance amending the Customs Tariff Act, 1975. The ordinance provides for extension of the duty by another five years if found necessary. The


\textsuperscript{42} Export and Import Bank of India, - "Need for protecting Natural Interests" \textit{Times of India}, 10 June 1993
new provisions have made anti-dumping laws more precise and specific and bring them in line with the Act of the Uruguay Round of Multilateral trade negotiations. The amendments also empower the government to impose countervailing duties to prevent subsidized, exports from abroad coming into India.

TRADE RELATED ASPECTS OF INTELECTUAL PROPERTY RIGHTS (TRIPS)

Ramu S. Shiva (1996)⁴³ said in a case study that in an investigation carried out in 1989, Montedison, Italy's chemical giant was found in the possession of nearly $55,000 of allegedly unlicensed software. The International Trade Commission of U.S. had estimated in 1986 that American companies lose about $60 billion annually to piracy abroad. In 1995 the international piracy is estimated around $150 charge in the Indian Patent Act, from process patenting to product patenting, granting a 20 years protection. GATT signatories have a 10 years moratorium to phase out the manufacture of patented drugs.

Pantulu C. Chitti (1995)⁴⁴ said that with one stroke of his pen, the President of India ushered in a new patents regime in the country in the dying hours of 1994. The promulgations of The Patents (Amendment) Ordinance harmonized the Patent Act, 1970. With GATT and notwithstanding the acrimonious debate on the

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merits of TRIPS made patenting of medicine or drug products a reality. The present system of granting patents seems to be loaded against the applicant. The time stipulations appear to be meant only for the applicant and not the authorities.

Subramaniam Chitra\textsuperscript{45} observed that statement of U.S. on TRIPS caused some worry for New Delhi. While the Uruguay Round TRIPS Agreement provides for transition periods of 6 to 10 years, Washington has termed this period as “overly long”. It says the US will seek to obtain agreement for its trading partners for implementing TRIPS’ substantive intellectual property standards and enforcement provisions in an accelerated manner to determine whether a country is providing “adequate and effective” IPR protection. The US Commerce Department will examine how a country had implemented the TRIPS agreement.

Mehta Balraj (1995)\textsuperscript{46} felt that India has taken a hasty step through the extraordinary provision of promulgation of an Ordinance for amending the Indian Patent Act of 1970. We should not succumb to the pressure of USA and other industrialized countries.

\textsuperscript{45} Subramaniam Chitra, “India Joins World Trade Organisation” \textit{Indian Express}, 13 November 1994
\textsuperscript{46} Mehta Balraj, “GATT Whip: supine response”, \textit{The Tribune}, 20 June 1995
Lahiri Jaideep\textsuperscript{47} said that pharmaceutical companies were in a fix with the Drug Controller of India attaching rigid preconditions on patents before registering a new drug at the behest of the multinational lobby. Sharma Devinder\textsuperscript{48} cautioned that allowing the foreign companies to have a free play in intellectual property rights without first creating an adequate mechanism to safeguard the national interests will only lead to an economic disaster.

Sreedharan Chindu (1996)\textsuperscript{49} revealed in his study that how the governmental complacency could rob us of our genetic wealth and traditional knowledge. The implications are as grave as they are in the case of neem. The US companies are taking advantage of the age old Indian knowledge to gain monopolistic control on our own natural resources and cautioned that once we revise our patent laws as provided by the TRIPS, the transnational's going to have the upper hand.

Manmohan Singh\textsuperscript{50} allayed fear that drug (medicine) prices would go up after the implementation of the WTO accord. About 90 per cent of the drugs used in India were not covered by the patent laws in the GATT agreement. Even in the case of balance

\textsuperscript{47} Lahiri Jaideep, “Information on patent sought for registration of drugs”, \textit{Economic Times}, 24 April 1995
\textsuperscript{48} Sharma Devinder, “Patent or perish”, \textit{The Pioneer}, 10 April 1996.
\textsuperscript{50} Manmohan Singh, “India Ready to Participate at WTO” \textit{Economic Times}, 19 January 1995.
10-15 per cent drugs, the prices would not go up. The ultimatum served on the country by the United States to reform the IPR regime or face consequences has consolidated public opinion against amending the Patents Act as being demanded by the US.

**GENERAL AGREEMENT ON TRADE IN SERVICES (GATS)**

Brown Ronald\(^51\) explained how the US was interested in India opening up its financial service sector and also stressed for expediting a strong enforcement mechanism for protection of intellectual property rights.

Rungta A.K.\(^52\) opined that India is among the 29 countries that have agreed to join a pact on freeing global trade in banking and financial services and it was in the interest of the developing countries that the move on the movement of personnel be linked up with the opening of the financial and banking sector.

**MARKET ACCESS**

Srivastava J.C.\(^53\) apprehended that extraneous factors including rigid rules and restrictive practices in regard to resource and technology transfer would tend to limit the scope of the opening up of markets of the North in the areas of direct interest to the South.

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Chapter 2

DISPUTE SETTLEMENT

Pranab Mukherjee\(^{54}\) observed that an improved access of the markets of developed countries, especially the US, was critical for the continued success of our reforms process. Khanna Tejendra\(^{55}\) opined that the new dispute settlement system had a "lot of teeth". If any country attempted unilateral action, there were provisions in the new agreement for GATT approval to cross-retaliation by a country or group of countries.

Srinivasan G. (1996)\(^{56}\) wanted a transparent multilateral agreement would assure that the rules of the game are the agreement would assure that the rules of the game are the same for everyone.

Labour Standards:

Saikia Santanu (1996)\(^{57}\) has brought out that India proposes to accept reference to Core Labour Standards in the Ministerial Declaration at the WTO Summit. India also has plans to accept the "transparency and openness" clauses for government procurement but will oppose foreign competition on a national treatment basis.

\(^{54}\) Mukherjee Pranab, "India needs to stay in WTO" IANS, Economic Times, 2 January 1994.

\(^{55}\) Khanna Tejinder, Who is afraid of Dunkel, Business Today, 22 June 1993


\(^{57}\) Saikia Santanu, "India set to accept WTO Labour Clause" Economic Times, 2 January 1994
Vishwanathan Prema\textsuperscript{58} felt in his study that the issue of core labour standards continues to loom over it like a Damocles’ sword and this initiative will be good for the global trading system. It will be good for workers”.

**Trade and Environment:**

The Committee on Trade and Environment has made an important contribution towards fulfilling its work Programme. The committees has been examining its various effects and were of the opinion that breath and complexity of the views covered by it showed that further work needs to be undertaken.

Ghei Nita (1994)\textsuperscript{59} stated that much of the environmental degradation in poor countries can be traced directly to poverty. The best way to check this degradation is to alleviate poverty which is its root cause. Freer trade will increase income and reduce poverty. If the rich nations wish to control environment damage they should lower their own trade barriers.

**Information and Technology Agreement (ITA)**

The conference took note of the fact that a number of members have agreed on a declaration on trade in Information Technology Products. The initiative taken by a number of WTO members and other states or separate customs territories which

\begin{footnotesize}
\textsuperscript{58} Vishwanathan Prema, “Revolutions are not made in conferences: Hoda”, *Economic Times*, 15 December 1994

\textsuperscript{59} Ghei Neeta, “Trade & Environment”, *Economic Times*, 19 April 1994
\end{footnotesize}
have applied to accede to the WTO and which have agreed to tariff elimination for trade in information technology products on MFN basis has received a favourable reaction.

Anklesaria Aiyar S. Swaminathan (1996)\textsuperscript{60} said that India's fast growing computer software exports should be boosted by the Information Technology Agreement (ITA) which aimed at slashing tariffs to zero by the year 2000, which was formally launched by 28 countries at Singapore and should result in negotiated commitments by the end of March, 1997.

Barshersky\textsuperscript{61} announced a sweeping information technology agreement to eliminate tariffs on global information technology products – semiconductors, telecom equipment, computers and computer equipment and software products. The pact was formally endorsed by 28 countries representing 85 per cent of the global trade in telecom products.

\textbf{Trade and Competition Policy:}

Srinivasan G. (1996)\textsuperscript{62} said that the first ministerial meeting of World Trade Organization adopted a consensus declaration rejecting the use of labour standards for protectionist purpose, committing itself to address the problem of marginalization of the

\textsuperscript{60} Swaminathan S. Anklesaria Aiyar, "IT pact apart, Singapore is a drawn match", \textit{Economic Times}, 14 December 1996.

\textsuperscript{61} Barshersky Charlene, "Consensus Declaration Adopted" \textit{Business Line}, 14 December 1996.

\textsuperscript{62} Srinivasan G., "WTO meet signals freer trade" \textit{Business Line}, 14 December 1996. p.1
least developed countries (LDCs) and agreeing to establish a working group to examine the relationship between Trade and Investment and also another group to study issues pertaining to the anti-competitive practices.

Nishikant Tiwari⁶³ said that the setting up of World Trade Organisation (WTO), as legacy of Bretton Wood Institutions and as successor of GATT w.e.f. January 1, 1995 unheard in a new regime of international trade, a regime of which viewed the world as a global economy and where all the constituent countries irrespective of the status of development were to call the shots on equal footing.

Manoj Pant⁶⁴ felt as the services sectors now dominated the developed countries it was felt appropriate that trade should also include services and suggested that the GATS agreements should become mandatory (rather than voluntary as under GATT) a new administrative body called WTO.

V. K. Gupta⁶⁵ opined that, the establishment of the World Trade Organisation (WTO) marked a significant step in institutionalizing the international framework for trade and intellectual property rights and suggested that Indian R&D institutions should evolve a suitable patenting strategy in order to meet the challenge of the new regime.

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⁶⁵ V. K. Gupta, Current Science, Vol. 78, NO. 8, 25 April 2000
K.N.V.S. Subramaniam\textsuperscript{66} rightly highlighted that multilateral trade has not yielded the desired results in respect of least developing countries (LDCs) and the developing countries due to years of economic exploitation suffered by them.

Duncan Matthews\textsuperscript{67} argues that compulsory licensing is one of a range of policy approaches that will ultimately assist in improving access to essential medicines in developing countries and the article suggests that a long-term achievement of the Doha-based negotiations is likely to be in refocusing attention on the potential of other measures that can operate alongside compulsory licensing provisions.

Kur Annette\textsuperscript{68} deals with the so-called horizontal issues that are overarching themes having an impact on all areas of intellectual property alike. It addresses recent developments in the light of which traditional assumptions about the proper functioning and beneficial effects of intellectual property rights have been put into doubt, and tries to identify unexplored research fields towards which future efforts should be geared.

\textsuperscript{66} K.N.V.S. Subrahmanyam, “Toning up the WTO”, \textit{Business Line}, 16 November 2009
\textsuperscript{67} Duncan Matthews, “WTO decision on implementation of paragraph 6 of the Doha declaration on the TRIPS Agreement and public health: A solution to the access to essential medicines problem” \textit{Journal of International Economic Law}, Vol. 7(1) 2004, Pp. 73-107
Xu G Gann\textsuperscript{69} observed that the Intellectual property (IP) generates a significant portion of corporate revenue across industries. Technical, business and legal information is critical for IP development, protection and commercialization.

Van Caenegem W\textsuperscript{70} stated that the countries that do not have a system of registered geographical indications must carefully consider their approach to expansion proposals in the WTO/TRIPS and the agricultural negotiations. The primary focus of such consideration should be the impact of the introduction of a GI register on domestic agricultural and rural industry, rather than potential benefits in foreign markets flowing from increased protection.

Lalitha N\textsuperscript{71} opined that the Indian Plant Varieties Act and highlights some issues that need attention in the context of plant protection and the introduction of IPR protected transgenic crops in the country. While the Act has made a good beginning by providing a legal framework taking into account the various players, its success will depend on creating and strengthening the

\textsuperscript{69} Xu G Gann, “Information for corporate IP management”, \textit{World Patent Information}, 26(2) 2004, 149-156


institutional infrastructure to register, monitor and regulate plant varieties.

Chien Colleen V\(^2\) dealt in his study with the patent system is built on the premise that patents provide an incentive for innovation by offering a limited monopoly to patentees. The inverse assumption that removing patent protection will hurt innovation has largely prevented the widespread use of compulsory licensing - the practice of allowing third parties to use patented inventions without patentee permission and suggested that, based on past experience, compulsory licenses need not result in a decline in innovation and that this policy option for increasing access to medicines deserves greater exploration.

Downes G\(^3\) provided an overview of the World Trade Organization's (WTO's) Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement and the extent to which it impinges on food security in the developing world.

Cera Christopher D, Kim Taeseong, Han JungHyun and Regli William C\(^4\) dealt in their study on developing various


methodologies in this context to protect engineering information by ensuring its availability, confidentiality, integrity, non-repudiation, authentication, access control, etc.

Cottier T and Panizzon M\textsuperscript{75} explored the feasibility of devising a new form of intellectual property (IP) protection that would recognize the social value of traditional knowledge (TK) and promote its integration into domestic and international trade regimes while respecting and preserving local autonomy and cultural values.

Ullrich H\textsuperscript{76} argued that the backward-looking focus of TRIPS competition rules on technology dissemination does not match the actual trend of cooperation-based innovation, since, a level playing field may only be established by early participation in the innovation process and by early access to enabling information.

Ethier W J\textsuperscript{77} makes several basic points relating to the economics of IPRs and the WTO dispute settlement process. These comments underscore the fact that the injection of IPRs into the global trading system raises a new dimension for settling disputes.


Chapter 2

Attaran Amir throws light on how patents affect corporate revenues or the health of the world’s poorest. Schertenleib Denis examines the patentability of living organisms under the European Patent Convention and the Biotechnology Directive 98/44. Barton J H describes the standards appropriate to a reasonable global patent, taking the perspective of the developing nations. It then describes a reasonable international enforcement procedure and the defenses appropriate in that process. It finally explores the institutional, financial, and political issues involved in creating such a global system.

Branstetter L G reviews several empirical studies undertaken by economists to assess the validity of the claim that strengthening such systems induces higher levels of innovation by domestic firms. Kamal Nath explained how the repeated attempts by rich nations to accord precedence to commercial interests over livelihood concerns of farmers led to failure of the WTO ministerial negotiations at Geneva.

Kimberly Elliot said the demise of the Doha world trade talks because of splits between wealthy and developing nations suggests other global undertakings, from slashing greenhouse gas emissions to ending food export restrictions, also will face hurdles. Agriculture minister Sharad Pawar rejected a suggestion that India should step out of the WTO because of high agricultural subsidies in the developed countries. "The question of agricultural subsidies has prompted some people to suggest that India should step out of the WTO. Such a step would be self-defeating. We would be singled out and left without support."

Dani Rodrik concludes that the so-called “development round” successfully, and farmers in poor countries will be lifted out of poverty and ensure that globalisation remains alive. Biswajit Dhar emphasizes the discordance between the major participating countries on agriculture and NAMA gets concluded the Doha round. Paul Krugman apprehended that if the Doha talks continue to flounder, negotiating momentum will shift to (far less desirable) regional and bilateral trade deals.

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86 Dr. Biswajit Dhar, “Next agenda: India must ensure services are part of WTO talks”, Economic times, 31 July 2008.
India along with other members of the Nama-11, a developing-country coalition, on 29 October, 2008, rebuffed sustained attempts by the United States and its partners to bring a fundamental change in sectoral tariff elimination in the Doha Development Agenda (DDA) negotiations, trade envoys\(^88\)

Negotiations on framing multilateral rules to check bio-piracy an issue being pushed by India at the seeking to provide it in the TRIPS negotiations, while India and the EU have managed to garner support from more than 100 countries on the need to negotiate all TRIPs issues together in the ongoing Doha round, a number of countries, including the US and Australia continue to oppose the suggestions.\(^89\)

Bibek Debroy\(^90\) opines all regional trading agreements (RTAs) should have been prohibited, since they violate MFN. However, there were several of these floating around and, realistically, they couldn’t have been scrapped.

India is emerging as a key global player in more ways than one. A more immediate context is India’s involvement with G-8 process. Since 2007, G-8 has initiated dialogue with Brazil, China,

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India, Mexico and South Africa to build a common understanding on key issues on the global agenda.⁹¹

Manoj Pant,⁹² stated that the developing countries like India will have to use the gaps between their bound and actual tariffs to keep out imports. We now have special and differential treatment (SDT). There is the US position (or lack of it!) on cotton imports. But the main point is that conclusion of the Doha round is in the technical phase and this cannot be sorted out in ministerial where political intrude.

Deepak Basu⁹³ stated that the proposal of the recently revived WTO’s Doha round of negotiations suggested that developing countries will have to cut their agricultural targets by 36 per cent. Even the most important products of poor farmers would face around 19 per cent cuts. The proposal did not imply real cuts in huge farm subsidies in the US and EU. Both pretend to effect 70 per cent and 80 per cent cuts inn subsidies. Actually, however, there were no real reductions.

India, along with other countries, on 22nd October 2009 shot down a concerted move by the United States, Australia, and Canada to prepare draft scheduling of commitments in Doha

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⁹³ Fernando De Mateo, “India rejects draft WTO services schedule by US” Business Standard, 2 October 2009.
services negotiations based on signals made by trade ministers during the failed ministerial meeting in 2008, a trade envoy told Business Standard.94

Ron Kirk and Simon95 lamented that almost no nation has the “political clarity” needed to sign Doha. “The U.S. has been made to be the whipping boy but reservations about liberalization are far more widespread”.

Other Literature:

Gudrun Monika Zagel96 argues that it would not be effective to use trade measures to enforce human rights or social standards. However, the WTO should acknowledge the HR impact of its work and take a ‘human rights approach’ as proposed by UN bodies. Stephen J. Powell97 explain how the WTO has made “respectable progress” in fitting human rights norms into its rules. Gives the example of the WTO’s legitimate use of general international law in its decision-making. Jiaxiang Hu98 examines the mutual relationship between WTO and international law. WTO law contributes to the machinery of international cooperation.

95 Ron Kirk & Simon Evenet, Wall Street Journal 0 Mint, 4 December 2009.
Chapter 2

Christiana Ochoa\textsuperscript{99} rates how Human rights ideas are becoming part of the operations of international organisations including the WTO. However, they are often being expressed in an alternative language which may be detrimental to the human rights movement.

Chantal Thomas\textsuperscript{100} examines the relationship between global trade and global poverty. Part IV looks at trade and human rights and outlines the benefits of importing human rights (particularly economic, social and cultural rights) into the trade regime. Also outlines (and counters) concerns about human rights in this context. Caroline Dommen\textsuperscript{101} distinguishes the two types of human rights concerns which arise in the WTO/human rights debate and sets out areas of conflict between WTO law and human rights law and further Focus on right to health and food, and equity/transparency issues. Andras Sajo\textsuperscript{102} deals with issues how trade-related rules and obligations violate human rights law and the efficiency of rights in transforming the international economic order.


\textsuperscript{100} Chantal Thomas, “Poverty Reduction, Trade and Rights”, \textit{American University International Law Review}, p1399,2002-2003.


Gabrielle Marceau\textsuperscript{103} endorses that the WTO dispute settlement system can respect international human rights through the good interpretation and application of WTO principles. Adelle Blackett\textsuperscript{104} argues that the Dispute Settlement Body should recognise the hierarchies in international law and apply human rights law, including customary human rights law, in its decision-making.

Thomas Cottier\textsuperscript{105} explores historical areas of convergence and tension in the relationship between trade regulation and human rights. Are human rights of a higher moral and legal rank than trade rules? Discusses the potential for trade regulation and human rights to be mutually supportive. Anthony Cassimatis\textsuperscript{106} examines the question of which human rights should be linked to trade. Looks at the legal hierarchy and establishes that core labour standards are not the only human rights issues that should be linked. Gary P. Sampson ed.\textsuperscript{107} exhorts that the international trading system must contribute to better living standards and a


safer world and reflects the needs of all WTO members and human rights standards should be integrated into economic policy-making.

Juan A. Marchetti\textsuperscript{108} Analyses developing countries participation so far in the current round of services negotiations under the Doha Development Agenda and discusses the essential role of services for economic development; the high costs imposed by trade protection; the benefits of liberalization; the need to make use of the WTO forum to enhance credibility and sustain domestic regulatory reform programmes; the challenges of regulatory reform and the importance of appropriate sequencing; and the benefits arising from seeking further market access overseas in those areas where developing countries have a comparative advantage.

Kent Jones\textsuperscript{109} identifies the benefits of WTO membership for developing countries and the elements of WTO membership that relate to economic development. Many developing countries have not benefited from the trading system because they have not been able to take advantage of it.

Jordana Hunter\textsuperscript{110} examines the way in which the multilateral trading system has accommodated development under the GATT. Looks at the way in which north/south issues are played out in


reference to the Agreement on Agriculture. Argues that the WTO has not lived up to its promises to developing countries.

Robert Wai\textsuperscript{111} explores the role that economic and social rights might play in the international trade regime. Specifically in terms of the trade vs. non-trade objectives debate and in terms of north-south conflict.

Jagdish Bhagwati\textsuperscript{112} the WTO's trade regime was built around the ideas of mutual advantage through trade. The inclusion of non-trade issues such as human rights, environment, intellectual property etc. does not promote mutual advantage.

Julio Larcarte-Muro and Petina Gappah\textsuperscript{113} outlines the participation and contribution of developing countries in WTO dispute settlement. Daniel D. Bradlow\textsuperscript{114} explores the tensions between developing countries and northern NGOs, argues that this tension is based on competing views of development – one which focuses on economic development and the other which also includes the social, cultural and political aspects of development.


Peter Sutherland\textsuperscript{115} discusses legal and institutional reforms necessary in the WTO for the conclusion of the Doha Round. Does the WTO system have a negative effect on developing countries?

Faizel Ismail\textsuperscript{116} applies Amartya Sen's definition of development (the removal of unfreedoms) to the trading system. Richard Blackhurst and David Hartridge\textsuperscript{117} criticises 'green-room meetings' (inner circle meetings attended by around 34 members). These are not the most democratic or effective way of arriving at agreements on important issues. This is not a north/south issue – it is an insider/outsider issue.

Julio A. Lacarte\textsuperscript{118} discusses transparency issues. The WTO should be more open, within the bounds set by practicalities and realism. Larry A. DiMatteo, Kiren Dosanjh, Paul L. Frantz, Peter Bowal, Clyde Stoltenberg\textsuperscript{119} discussed in their study in order to improve its treatment of non-trade concerns the WTO must increase the level of participation of non-trade stakeholders.

\textsuperscript{115} Peter Sutherland, "The DOHA development Agenda: Political Challenges to the World Trading System – A cosmopolitan perspective", \textit{Journal of International Economic Law} 8(2) 363-375.


\textsuperscript{117} Richard Blackhurst and David Hartridge, "Improving the capacity of WTO Institutions to fulfil their mandates", \textit{Journal of International Economic Law} 7(3), 2004, Pp.705-716.


\textsuperscript{119} Larry A. DiMatteo, Kiren Dosanjh, Paul L. Frantz, Peter Bowal, Clyde Stoltenberg, "The DOHA declaration and beyond: giving a voice to non-trade concerns within the WTO trade regime", \textit{Vanderbilt Journal of Transnational Law}, 2003.
Jeffrey Atik discusses styles of democratic deficit (processes and outcome-based criticisms) and argues that the WTO must increase its democratic foundation in order to survive. This will require addressing the democratic weaknesses of members and paying more respect to member’s policies when they are the outcome of democratic processes.

Kent Jones opines that the use of trade sanctions to pursue non-trade goals, such as human rights, would decrease the value of the WTO and undermine the trade regime. The solutions to non-trade issues lie outside the WTO. Ronald Labonte discusses general and sector-specific issues associated with the WTO’s role in international governance. “WTO Agreements need to be subordinated to human development and environmental sustainability goals, and not allowed to overbear them.”

Marco C.E.J. Bronkers opined that a number of fundamental and institutional changes should take place to allow the WTO to take on additional duties (environment, labour, competition etc.) and utilize its unique characteristics (eg package deals, effective dispute resolution).

Chapter 2

John H. Dunning[124] discussed the issues that should be taken into account in the debate about the broadening of the WTO’s sphere of activity beyond traditional trade issues.

Adelle Blackett[125] argues that trade policy should situate itself within a context of public international law. Focuses on the ‘social clause’ and ILO/WTO linkage. Philip M. Nichols[126] dealt at in his study with The WTO’s response to conflict between trade values and societal values in relation to environment, labour and cultural identity.

Kyle Bagwell, Petros. C. Mavroidis, and Robert W. Staiger[127] discussed here the as a general rule non-market access issues should be handles outside the WTO. Steve Charnovitz[128] presents an analytic method for considering proposals to expand the scope of the WTO. Raj Bhala[129] examines the linkage of trade and national security (i.e. the use of trade sanctions against states on the basis of the threat that they pose to national security) with reference to GATT Article XXI.

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Michael P. Ryan\textsuperscript{130} stressed that Trade-related diplomacy should not be the sole focus of linkage negotiations and opined that specialist knowledge of the linked field is required for the establishment of an effective regime.

George Soros\textsuperscript{131} argues that the WTO should not have become involved in intellectual property rights. The WTO opened up a Pandora's box when it became involved in intellectual property rights. If intellectual property rights, why not labour rights, or human rights?

Audrey Chapman\textsuperscript{132} discusses the human rights issues that are affected by the manner in which creative, scientific and cultural intellectual property is protected.

Hoe Lim\textsuperscript{133} argues that the WTO is linked to human rights aims and outcomes through Article XX, but that the WTO's most significant contribution to the human rights movement is its role in establishing a multilateral legal framework which facilitates free trade.

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Chapter 2

Samuel K. Murumba\textsuperscript{134} examines the global regulation of intellectual property by a “thin bargain linkage” between trade and intellectual property and comments that TRIPS fails to recognise cultural differences. Laurence R. Helfer\textsuperscript{135} discusses the structural elements of TRIPS that will contribute to the complexity of IPR dispute settlement. Haochen Sun\textsuperscript{136} discusses the global debate on the effect of TRIPS on public health. Focus on the implications and limitations of the Doha Agreement and argues that TRIPS should be interpreted with maximum flexibility to promote access to pharmaceuticals.

Duncan Matthews\textsuperscript{137} discusses on the Information on paragraph 6 of the Doha declaration (access to low-cost essential medicines in developing countries) and the subsequent agreement of 30 August 2003 (TRIPS exceptions for public health reasons). Haochen Sen\textsuperscript{138} warns that too much IP protection can undermine human rights. Discusses compulsory licensing and article 30


based solutions to public health/IP issues faced by developing countries. Outlines the Doha Round developments.

Naomi A. Bass\(^{139}\) examines the effect of TRIPs on pharmaceutical patent laws in developing countries with a focus on South Africa and Brazil and looks at the legal and socioeconomic effect of TRIPS. Judy Rein\(^{140}\) discusses the reasons why trade agreements upholding property rights are ill-suited to managing all the interests affected by the regulation of patents on medicines.

Lori Wallach and Patrick Woodall\(^{141}\) argued that how TRIPs rules (and patents on seeds and plant varieties) endangers food security also criticizes, the Agreement on Agriculture, for treating food as a commodity, rather than a right and argues that rich world subsidies and food dumping causes hunger in developing countries and developing countries and the AoA is a threat to foods security and sovereignty in the developing world. Erik Bluemel\(^{142}\) examines the indigenous right to participation in WTO lawmaking, in particular in relation to TRIPS (which denies participatory rights to indigenous groups).


Jordana Hunter examines the way in which the multilateral trading system has accommodated development under the GATT and looks at the way in which north/south issues are played out in reference to the Agreement on Agriculture and further argues that the WTO has not lived up to its promises to developing countries.

Steve Tangermann considers how well the rules for agriculture in the Uruguay Round worked. Mark Ritchie, Kristin Dawkins studies the impact of export dumping on the human right to food security.

Fiona Smith looks at the problem of incorporating non-trade concerns (eg. environment, food security, preservation of rural areas) and not allowing them to become a form of protectionism. India said that it would not make any new offers till the US formally softens its highly ambitious demand on increased market access for its industrial goods in developed countries.

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147 - India says no new offers at WTO till US softens stand, Financial Express, 8 December 2008.
WTO issued revised draft texts aimed at overcoming differences that have blocked an agreement to free up global trade in agricultural and manufactured products.\textsuperscript{148}

Parthapratim Pal,\textsuperscript{149} opined that RTAs may not guarantee improved market access in developed countries. But improved market access in developed countries manages to push much more stringent conditions through RTAs than it is possible to do under the WTO.

Pascal Lamy\textsuperscript{150} said that WTO would start reporting tariff rises and similar moves by its members that limit trade and thus would help prevent protectionism widely blamed for the ferocity of the 1930s Great Depression from taking hold in the current economic effort by the body that referees world trade to move beyond trade negotiations after the latest setback to the Doha Round decision last week not to call a meeting of ministers.

Obama\textsuperscript{151} stated that the US would insist on strong protections for workers and the environment in future trade deals. Many developing countries are suspicious of U.S’s efforts to include bounded labour and environmental provisions in trade pacts because they believe they could be used by rich countries.

\textsuperscript{148} - WTO issues new draft texts to advance trade negotiations, Financial Express, 8 December 2008

\textsuperscript{149} Parthapratim Pal, “How useful are North-South RTAs”, Financial Express, 10 December 2008.

\textsuperscript{150} Pascal Lamy, HT Mint, 19 December 2008.

The famous Tirupati laddu will soon get a geographical indication (GI) tag, making it arguably the first offering at a place of worship anywhere in the world to be recognized as an intellectual property in this case, of the Tirumala Tirupati Devasthanams (TTD) a trust that manages the temple at Tirupati state.¹⁵²

We are positive that Indian lawyers need not be afraid of competition. They should, in fact, facilitate a smoother and more meaningful entry of foreign law firms.¹⁵³

The Indian Patent Office accomplished during this period most of which should have been completed during the ten-year transition period (1975-2004). Significant among them are creation of modern infrastructure, digitization of patent applications and recognition by the World Intellectual Property Organisation (WIPO) as a search and examination centre. The key elements were introducing a TRIPS-compliant patent regime that balanced the interests of the right holders and public health and avoiding a regime that balanced the interests of the right holders and public health and avoiding a regime that encouraged patenting of trivial changes. However, there is still a lot more to be done to instill

¹⁵³ Fax Mandal, Foreign Legal advice, Economic Times, 31 December 2008.
confidence among the users that the Indian patent system is fair, equitable and just.\textsuperscript{154}

Aaditya Mattoo and Arvind Subramanian\textsuperscript{155} said that the recent G-20 summit communique included a commitment by world leaders not to impose protectionist measures. The ink was barely dry before a number of countries took measures to protect domestic firms. Russia imposed a number of import tariffs.

The global trading system does not effectively regulate export restrictions in agriculture and, most strikingly, no mechanisms exist for blocking collusive government action in the most important traded commodity oil. Multilateral rules will have to address this gap.\textsuperscript{156}

World Bank\textsuperscript{157} said amidst protectionism emerging as a major threat to the global trade flow, data compiled by World Bank shows that India is next only to the US in terms of new anti-dumping measures imposed by their respective governments. Besides, the number of such measures increased substantially in the second half of 2008 in both countries.


\textsuperscript{155}Aaditya Motto and Arvind Subramanian, “Importance of issues that Doha does not address is becoming glaringly evident;” \textit{Business Standard}, 7 January 2009.

\textsuperscript{156}An Interview with Tim Groser, \textit{Economic Times}, 10 March 2009.

\textsuperscript{157}World Bank’s background paper for the G20 Finance Ministers and Central Bank Governors Meeting in the UK. \textit{Business Standard}, 10 March 2009.
Suparna Karmakar\textsuperscript{158} said that Washington seems to imply that in effect, for the next couple of years at least, multilateral trade negotiations of the ongoing Doha Round are likely to be pushed into the freezer.

China has dragged India to the World Trade Organisation (WTO), to help ease flow of trade and settle disputes, for restricting its toys imports from January 2009, alleging it is a discriminatory move to protect domestic companies. India had banned Chinese toy imports for six months in January, but later allowed such imports provided they were accompanied by quality certificates from internationally recognised laboratories and agencies.\textsuperscript{159}

R Gopalan\textsuperscript{160} said that India has taken exception to the talks that the US and EU are holding with African countries for clinching a WTO deal on cotton, saying it cannot be left out as it is the second-largest producer of the commodity”.

The WTO\textsuperscript{161} warned about an “incremental build-up of restrictions” in the wake of worsening global economic crisis. Though there is no “imminent descent into high intensity protectionism”, the trade body said, “The danger today is of an incremental build-up of restrictions that could slowly strangle

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\item[\textsuperscript{158}] Suparna Karmakar, “Why Doha Round conclusion is even more crucial now”, \textit{Hindu Business Line}, 13 March 2009.
\item[\textsuperscript{159}] –China takes India to WTO over toy import curbs, \textit{Economic Times}, 16 March 2009.
\item[\textsuperscript{160}] R Gopalan, “Africa-EU-US talks on WTO cotton deal irk”, \textit{Financial Express}, 21 March 2009.
\item[\textsuperscript{161}] –WTO worried over barriers due to crisis, \textit{Business Standard}, 27 March 2009.
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international trade and undercut the effectiveness of policies to boost aggregate demand and restore sustained growth globally”.

Animal welfare concerns are being increasingly recognised in food production around the world, but they must be formalised within the WTO trade agreements.\textsuperscript{162}

India has opposed a reported move by the European Union (EU) to include animal welfare issues in the World Trade Organisation (WTO) negotiations. India viewed these were attempts by developed countries to block exports from developing countries using this new standard.\textsuperscript{163}

India asked Japan at the World Trade Organization to remove a range of burdensome restrictions on Indian generic drugs, fruits and vegetables, marine products, and short-term movement of professional services’ providers.\textsuperscript{164}

Kamal Nath\textsuperscript{165} expressed concern that the sudden wave of protectionism in the developed world emerging due to the economic slowdown may hamper global trade, and demanded a deadline should be set for concluding the world trade deal under WTO.

\textsuperscript{163} "India opposes EU proposal to include animal welfare issues in WTO talks" \textit{Financial Express}, 15 April 2009.
\textsuperscript{164} - India raps Japan at WTO, \textit{Business Standard}, 19 February 2009.
\textsuperscript{165} Kamal Nath, “Kamal Nath wants 2009-end Doha deadline”, \textit{PTI Press Release}, 20 February 2009.
India complained about the seizure of its cardiac drugs by the French customs authorities in the protest of violation of patent rights. India complained to TRIPS council that widespread and repeated seizures would have an adverse impact on legitimate trade of generic medicines, universal access to medicines in the Third World countries and national public health budgets. European Union Promised safe passage for Indian drugs after she took up the issue following the seizures.

Jagadish Bhagwati stated that the progress on Doha without the US playing a key role to close the deal is impossible.

The Indian government complained to the WIPO that multinational pharmaceutical companies were campaigning against India's generic drug industry, which accounts for 20 per cent of the world's total generics business. Indian seeds companies would create competition in the market dominated by multinational companies under WTO arrangements. Francis Gurry assured that the plans to reform The Patent Cooperation (PCT) would not

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167 Indian drugs may get safe EU passage: Netherlands takes lead after India threatens to drag EU to WTO, *Economic Times*, 4 November 2009.
169 -Industry flays IPR pact with WIPO: Department of Industrial Policy & Promotion says MOU will benefit the SMEs, *Financial Express*, 12 November 2009.
171 Francis Gurry(DG/WIPO), "TRIPS flexibilities scared; no plans to touch them", *Financial Express*, 17 November 2009.
lead to infringing upon the powers of national governments in matters of patent examination and grant.

The WTO should analyse –domestic companies as proposed by India, Argentina and Ecuador.\textsuperscript{172} It was stressed while the Doha deal would ultimately require the support of all 153 WTO members to be signed; the largest trading nations may first need to agree between them how to cut protective tariffs and subsidies.\textsuperscript{173}

India decide to hold one last round of consultation with the European Union on the steps it was taking to stop the wrongful confiscation of pharmaceutical consignments from India at European ports before asking the WTO to setup a dispute settlement panel to resolve the issue.\textsuperscript{174} As the Doha Round impasse exposed the internal contradictions in the style of functioning India proposed a near – radical package for reforming the world body. The proposal include an institutionalized mechanism to give additional trade-related incentives to poor countries, more frequent meetings of various WTO committees, and

\textsuperscript{172}WTO told to study stimulates impact; investigate local sourcing norms, \textit{Financial Express}, 18 December 2009.

\textsuperscript{173}Lamy, "Copenhagen a negotiation model for WTO", \textit{Indian Express}, 22 December 2009.

\textsuperscript{174}India gives EU another to settle drug seizure case, \textit{Economic Times}, 26 December 2009.
a single window for sourcing information on non-tariff barriers (NTBs) imposed by countries.175

India raised issues relating to enabling small and medium enterprises to access the large pool of technologies that go off patent at any given time. Around 95 per cent of industrial units in the country are SMEs and they account for nearly two-fifth of the value addition in the manufacturing sector.176 The advanced developing countries like China, Brazil and India are expected to take on an increased level of responsibility and the USA has sought to have a meaningful new market access with them.177

USA argued that India has met the definition of ‘export competitiveness’ as defined in SCM Agreement and therefore, her case be examined, whether for India still qualified for concessions export subsidies in respect of textile exports.178 It is unfair while US has 60 per cent subsidy, India’s share is 3 per cent only. Therefore, WTO treaty can do no good.179 The recent world recession put WTO activities on hold. Despite many attempts, closure of Doha Round has still not been achieved.180

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175 - India proposal for WTO reforms on ministerial agenda, Financial Express, 21 November 2009.
176 Hoda, “India’s WTO reform plans not coherent”, Financial Express, 30 December 2009.
Indian companies will be able to capture a major chunk of the market with our strength in generic drug manufacturing when the $60 billion worth of patents expire in the next three to four years.\footnote{Pradeep Mehta, “Drug patents worth $ 60bn to expire in 4 years”, \textit{Times of India}, 12 March 2010.} India joined the Madrid system in 2010 by signing the International Registration of Marks which is a part of WIPO.\footnote{India to sign trademark protection treaty, \textit{Business Line}, 19 March 2010.} If the Doha Round will not be concluded until 2013, developing could not afford to place their negotiation cards when the USA would not be ready to reciprocate.\footnote{Doha Round likely to miss 2010 deadline, too, \textit{Business Line}, 23 March 2010.}

India informed the WTO that it is the first country to offer duty-free and quota-free (DFQF) market access to LDCs.\footnote{India to provide duty-free access to products from LDCs, \textit{Business Standard}, 24 March 2010.} India won its argument relating to its IPRs on Ashwagandhi medicinal plants against USA.\footnote{India foils US firm’s bio-piracy bid, \textit{Times of India}, 27 March 2010.} India warned the US and the EU on imposing carbon tax (environmental tax) on the Indian exports and the matter would be placed before the DSB.\footnote{India threatens to move WTO on carbon tax issue, \textit{Business Line}, 29 March 2010.}

By introducing a product patent regime in 2005, India signaled to the world that it was ready to value and protect innovation. However, this has not been fully implemented in the true letter and spirit.\footnote{India’s patent policy is discouraging innovations that can be of help, \textit{Business Standard}, 30 March 2010.} The EU move has damaging economic

\footnotetext[1]{Pradeep Mehta, “Drug patents worth $ 60bn to expire in 4 years”, \textit{Times of India}, 12 March 2010.}
\footnotetext[2]{India to sign trademark protection treaty, \textit{Business Line}, 19 March 2010.}
\footnotetext[3]{Doha Round likely to miss 2010 deadline, too, \textit{Business Line}, 23 March 2010.}
\footnotetext[4]{India to provide duty-free access to products from LDCs, \textit{Business Standard}, 24 March 2010.}
\footnotetext[5]{India foils US firm’s bio-piracy bid, \textit{Times of India}, 27 March 2010.}
\footnotetext[6]{India threatens to move WTO on carbon tax issue, \textit{Business Line}, 29 March 2010.}
\footnotetext[7]{India’s patent policy is discouraging innovations that can be of help, \textit{Business Standard}, 30 March 2010.}
implications for India as the country with 15,000 plant species is aggressively trying to expand its share in the $75-billion global market for herbal medicines and medicinal plants come close to $1 billion.188 Contrary to earlier stand of its preferential treatment to the poor nations, the EU’s trade agreements with the developing countries are turning out as those of the US harsh pacts that trap poor nations in intellectual property regimes that are much worse than what the WTO has mandated under its TRIPS agreement.189

The US’s bid to throw the blame on ‘least developing countries’ like India, China and Brazil and etc., for the inconclusive Doha round was resulted.190 The 2005 agreement declared that developed countries would eliminate all forms of cotton export subsidies in 2006 and would provide duty and quota-free access for cotton exports from least-developed countries, while including general language on domestic subsidies.191

Though the Doha Round of global trade talks is unlikely to be over this year, leading developing countries like India, China and Brazil are apprehensive of the renewed emphasis on environment and climate change issues in the form of carbon cap-and-trade system and border tax adjustments measures on

188 –India to move WTO against EU herbal drug order, Financial Express, 13 April 2010.
189 –Swaminathan, “Beware of EU agenda: Tough IPRs sought by EU in its FTA with India have set off global protests”, The Hindu, 22 May 2010.
190 –India ignores US blame on Doha ‘Advanced (developing) economies’ coined to create pressure, Economic Times, 14 May 2010.
191 –India for African support on US cotton deal, Indian Express, 10 June 2010.
imports. Experts say this will mean another form of protectionism, generating trade disputes, which may lead to a “trade war”.192

Pascal Lamy193 advocated India that it should look after its interests and play its role constructively. A US initiative could break the impasse and propel the major developing countries to improve their market access offers, which is a key objective of its Doha negotiations. Let the Toronto summit call upon all G-20 leaders to do a bit more in the Doha Round.194 The importance of accommodating state governments interest in WTO issue have been advocated for instance, the mechanism that should be pressed for at the WTO to protect farmers in case import surges if trade were opened.195 The developing nations have cautioned against an increased reliance on International Search Authorities (ISAs) for respective national patent offices with respect to scrutiny and grant of international patents.196

Both US lawmakers and key trade negotiators want to scrap the Doha Development Round entirely. They have urged President Barack Obama to reverse the Doha round of talks and instead call

192 -New FTA policy: Everything or nothing, Indian Express, 11 June 2010.
193 -Climate issues at WTO may lead to ‘trade war’, Business Standard, 14 June 2010
194 Pascal Lamy, “India has to look after its interests offensively as well as defensively”, Indian Express, 17 June 2010.
196 -States to have more voice in WTO matters, Economic Times, 22 June 2010.
for fresh negotiations that will protest labour rights, domestic workers, and environmental standards.197

Pradeep Mehta198 observed that there are several issues on which India successfully engage in negotiations by taking its own independent line. This is essential for India to become a major and influential economic power, which many of us in the country hope to achieve.

Venkatachalam199 suggested that EPCs have to identify products which have a great export potential as well as exporters participating in the project which should aim at intervention on a sustained basis over the next two or three years and support from the scheme will decline over the period each year. Pradeep Mehta200 called for a fair and market-oriented trading system through a programme of fundamental reforms encompassing strengthened rules and specific commitments on support and protection to correct and prevent restrictions and distortions in the world agricultural markets. Naik201 studied the impact of WTO norms on small and medium size enterprises. He suggested for WTO-compatible policy for the sector.

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197—India’s ideas make way into G-20 note: Omits commitment to Doha, Economic Times, 29 June 2010.
Ashok Dasgupta\textsuperscript{202} highlighted the need for safeguarding certain sensitive sectors of the Indian economy such as the small-scale industries, which would be particularly vulnerable in a liberalized climate. Nishikant Tiwari\textsuperscript{203} concluded that as the events gradually unfolded, like other LDCs, India also recognised that the rules of the game were not favourable to them especially in respect of patent regime and services sector. Abdul Rahman\textsuperscript{204} concluded that WTO is more a tool of production of the interests of developed countries.

Ranabir Ray Choudhury\textsuperscript{205} dealt with services negotiations stemmed from the fact that it had the potential of generating employment, putting the vast pool of available skills at work, and optimizing the benefits arising from having a young workforce. Srinivasan\textsuperscript{206} pleaded that India should stress for elimination of total subsidies. India sought sagacity and statesmanship from countries benefited from globalisation, as otherwise the Doha Round of multilateral trade talks under the WTO auspices, which holds the promise of a conclusion by the end of 2008 might move

\textsuperscript{202} Dasgupta Ashok, “India highlights market access concerns at WTO”, \textit{Business Line}, 16 November 2002.
\textsuperscript{205} Choudhury Ranabir Ray, “Focus on services in WTO”, \textit{Business Line}, 7 January 2008.
\textsuperscript{206} Srinivasan, “India seeks effective cuts in overall farm support from rich countries”, \textit{Business Line}, 4 January 2008.
sharply away from convergence.\textsuperscript{207} Kasturi Das\textsuperscript{208} argued that it would be unfair for the developed countries as which are levied high tariffs in their earlier phase of development, now pointing out to reduce the tariffs by the developing countries.

A critical factor would be whether the member countries that have hitherto enjoyed the gains of trade liberalisation were willing to make their contributions to fulfill the core objective of the Round.\textsuperscript{209} Srinivasan\textsuperscript{210} mentioned that the Doha Round now in its tenth year has not yet arrived any semblance of convergence on the modalities in both agriculture and non-agricultural market access (NAMA) or industrial products under which both the developed and the developing countries would proceed to translate their modalities into tariff cuts on thousands of industrial products, in the case of developing countries and on subsidies and support, in the case of developed countries.

Doraiswami\textsuperscript{211} concluded that nations with stronger trade muscle are trying to manipulate the WTO and extract one-sided and selective advantages while evading their obligations thereunder. Manoj Pant\textsuperscript{212} observed that WTO has largely been concerned with removing import restrictions it has generally been

\textsuperscript{207} "Sense of urgency" on WTO needed, \textit{Business Line}, 8 February 2008.
\textsuperscript{208} Das Kasturi, "Development concerns remain neglected", \textit{Business Line}, 15 March 2008.
\textsuperscript{209} -India against converting Doha Round into market access exercise for rich, \textit{Business Line}, 17 May 2008.
\textsuperscript{210} Srinivasan. G. "WTO in a bind over Doha Round", \textit{Business Line}, 5 June 2008.
\textsuperscript{211} Doraiswami P.K. "WTO: Missing the wood for the trees", \textit{Business Line}, 4 June 2008.
\textsuperscript{212} Pant Manoj, "Agricultural Negotiations and India". The \textit{Economic Times}, 9 May 2008.
silent on export restraints. Mohan Murti\textsuperscript{213} studies the attempts to strike a breakthrough deal on liberalizing agriculture and manufacturing trade that would make it possible to conclude the Doha Round negotiations in the foreseeable future. The basic stumbling block in the entire Doha Round negotiating process has been the unhelpful attitude of the developed economies on how much they should concede to the developing world to build a fair and equitable trading system.\textsuperscript{214}

The WTO decision making relies on consensus and not majority voting of any kind. Hence, if an exception is demanded by a member, no agreement is reached unless the exception is either accommodated or dropped by consensus. This has made WTO negotiations increasingly complex and time-consuming.\textsuperscript{215}

Thus, it is clear from the above review of literature that a number of studies have been conducted and different authors have held different viewpoints and thus, leaving a large scope for further studies. Notwithstanding this, studies encompassing various aspects of WTO are a very few. Hence, an attempt is made now to further study the functioning of WTO and other recent trends relating to procedures, rules, agreements and dispute settlements in the following chapters.

\textsuperscript{213} Murti Mohan, “Chewing through the trade regulations”, \textit{Business Line}, 28 July 2008.