CHAPTER 7

(THE INTERNATIONAL SCENARIO)

--(WORLD TRADING ORGANISATION) WTO

--(UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT) UNCTAD

--THE URUGUAY ROUND

--SINGAPORE MINISTERIAL CONFERENCE
This chapter deals with international organisations including the WTO (formerly called the GATT), UNCTAD. These organisations have become increasingly important in the present-day world, where international trade is becoming increasingly important.

(General Agreement on Tariffs and Trade)GATT

The beginnings of GATT now succeeded by the WTO (World Trading Organisation) were with the Bretton Woods Conference of 1948. From the end of the Second World War to 1974, there were over twenty-two years of progressive liberalization of trade. After 1974, the economic climate worsened. There were currency crises, oil crises, debt crises, recession and high unemployment. The crises provided a cause for demands for protectionism. It is reportedly attempts to avoid the pain of unemployment which is the main cause of today's protectionism in the industrial countries.

Since 1st January, 1948, open trade, enabling enterprises to expand to sell their goods and services around the world, operated within the framework of a set of rules. This has been laid down in the articles and codes of the GATT. GATT is a multilateral treaty among the member-countries that lays down agreed rules for conducting international trade. It started as a contractual arrangement regulating trade policies, and was first entered into by twenty-three countries in 1947. India was a Contracting member of GATT. The Agreement contains four Parts, comprising of 38 Articles. Apart from laying out basic principles (such as non-discrimination and national treatment) it also addresses some special problems (such as free-trade areas, balance of payments, export subsidies) and procedures for consultation and dispute settlement.

The basic objective of GATT is to liberalise world trade. The most fundamental principle of GATT is non-discrimination between the Contracting Parties. GATT contains rules relating to tariffs, quantitative
restrictions, trade measures for balance-of-payments purposes, export subsidies, anti-dumping and countervailing duties, customs valuation, state trading, etc. Special provisions have been made for developing countries. GATT also provides a forum for dispute settlement among member countries.

Prior to the seventies, GATT had organised six Rounds of trade negotiations. These were as below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Location</th>
<th>Round</th>
</tr>
</thead>
<tbody>
<tr>
<td>1947</td>
<td>Geneva</td>
<td>1st Round</td>
</tr>
<tr>
<td>1949</td>
<td>(Amn) France</td>
<td>2nd Round</td>
</tr>
<tr>
<td>1951</td>
<td>(Torquay, England)</td>
<td>3rd Round</td>
</tr>
<tr>
<td>1956</td>
<td>Geneva</td>
<td>4th Round</td>
</tr>
<tr>
<td>1960-61</td>
<td>(Geneva, Dillon Round)</td>
<td>5th Round</td>
</tr>
<tr>
<td>1963-67</td>
<td>(Geneva, Kennedy Round)</td>
<td>6th Round</td>
</tr>
</tbody>
</table>

After the first round at Geneva in 1947, GATT’s next several rounds focused on product-by-product negotiation of tariff bindings by the developed countries. As a result of these negotiations the tariff rates on thousands of items were reduced or bound against increase. An attempt was made to accelerate liberalisation in the Dillon Round (1959-61). There was a more radical across-the-board approach in the Kennedy Round (1963-67) which achieved approximately 35% cut in tariffs.

GATT is founded on the basis of certain obligations. These are as follows:

**TRADE WITHOUT DISCRIMINATION**

**Most Favoured Nation (MFN) Treatment**

The main provision establishing the rule of non-discrimination is known as the Most-Favoured Nation (MFN) clause. Under this provision, a country granting an advantage to one Non-GATT party (Most Favoured Nation) must grant the same advantage to another member country. This covers all matters connected with imports or exports including customs duties, changes and regulations affecting internal sale, purchase, distribution and the use of imported products. Thus to each member country, the best treatment accorded to any trading partner has to be given. The extension of the concession or favour has to be
immediate and unconditional.

The exceptions to the above facility are those dealing with regional trading arrangements (customs union and free trade area) and the balance-of-payments restrictions (of the developing countries).

A Protection through Tariffs:

GATT is designed mainly as a tariff agreement, and contains elaborate provisions with regard to tariff concession. These are in the form of commitments (or bindings) on the ceiling of the levels of tariff to be applied on specific items of products imported from other members.

A Stable Basis of Trade

Tariffs Negotiations and Renegotiations:

While the first five rounds followed the process of product-by-product negotiations, the sixth round adopted a linear approach on industrial products. The tariffs were to be cut by fifty per cent, allowing exceptions for good reasons. Reciprocity was central to the framework for reduction of tariffs. During rounds of negotiations for reduction of tariffs, each country is expected to meet equivalent concessions.

Consultation

A basic principle of GATT is that member countries should consult one another in the matter of trade and trade problems. They can call on GATT for settlement in cases where member countries feel aggrieved. The GATT councils set up panels of independent experts to examine the trade disputes between members. Those on the panels are experts from different countries, who have no vested interests. The panel is generally interested in making mutual and amicable settlements between the two parties.

National Treatment on internal taxation and regulation:

GATT prohibits differential application on imported and domestic products of internal taxes and laws,
regulations and requirements affecting internal sale. The obligation applies equally to all products, irrespective of whether it is covered by a tariff concession or not. GATT bans quantitative restrictions on both imports and exports. More than twenty-five years of progressive liberalisation of trade, from 1948 to 1976, saw considerable growth in world prosperity. However, with the beginning of the crises referred to earlier, countries started resorting to protectionism. The first victim was trade in textiles, followed by trade in footwear, leather goods, steel, ship building, cars and consumer electronics.

Instead of tariffs, NTBs (Non Tariff Barriers) have been resorted to. These include foreign exchange licensing, special taxes on imports, import licensing and quotas, and health and safety regulations which are a constraint on intra-developing country trade.

**United Nations Conference on Trade and Development (UNCTAD)**

The second international organisation which is significant from India's point of view UNCTAD is a body of the United Nations. Although most of the developing countries were joining the GATT, they were not completely comfortable as they felt that they did not always get a good deal and that the developed countries tended to ensure that their interests were taken care of. UNCTAD was established in 1964 on the demand of the developing countries to enable them to have a forum to discuss the problems relating to trade matters and to their economic development. Presently also, UNCTAD is the only body where developing, developed as well as centrally planned economies are members.

The main objectives of UNCTAD were:

(i) Prevailing upon the developed countries into progressing, reducing and eliminating trade barriers and other restrictions which impede trade with developing countries. In effect, it has been working on getting preferential terms of trade for the products of developing countries while they are exported to developed countries.

(ii) Formation of principles and policies in international trade and other related fields covering all aspects
of development, including trade, transport, finance and technology.

(iii) Negotiations for multilateral trade agreement.

Member-countries of UNCTAD meet as often as is necessary, but a meeting is a must once in four years. The Trade and Development Board is a permanent organisation of the UNCTAD which exercises administrative controls of the conference. There are four subsidiary organisations:

(1) The Committee on Commodities;
(2) The Committee on Manufacturers;
(3) The Committee on Shipping;
(4) The Committee on Invisibles and Financing.

The activities of UNCTAD cover a wide area which includes trade in commodities, trade in manufactures, invisibles and financing related to trade, transfer of technology, shipping and economic cooperation among developing countries. So far nine conferences have been held. UNCTAD VII was held in Geneva in 1987, while UNCTAD VIII was held in Cartegena in 1992. UNCTAD IX was held in 1996 in Midrand, South Africa.

UNCTAD has a number of achievements to its credit. In 1974, the Convention on a Code of Conduct for Liner Conferences was adopted. This seeks to promote an equitable balance of interests between shippers and ship-owners in developing countries. Agreement was reached on a Common Fund in June 1980. The Common Fund is the key element of the Integrated Programme and is intended to assist in the financing of buffer stocking, and of the other measures, such as research and development, market promotion, etc., under international commodity arrangements.

(Generalised System of Preferences) GSP

GSP is one of the principal achievements of UNCTAD in the 1964 Geneva Conference. It is a system which allows preferential tariff rates i.e. less or very much reduced tariff rates in favour of certain products of developing countries to be exported to developed countries. It was agreed that in order to promote the exports of manufactures
from developing countries to developed nations, special tariff concessions should be allowed by the developed countries on such items of imports from developing countries. Under the GSP, developing countries have been allowed to compete on preferential basis. As imports of such items from other developed countries are subject to normal rules of duties, exports of developing countries would be more competitive.

For example-Suppose the U.S. imposes import duty on handtools at 15% under GSP then the imports of handtools from India to US will not be subject to the customs duty, while handtools imported from Japan, will be charged customs duty at 15%. Indian handtools will be cheaper than that of Japan, an industrially advanced country. Thus, Indian products can compete easily. The problem areas include agricultural exports, manufactured goods (textiles, leather products and petroleum products), non-durable products. These areas are outside the GSP. Consequently trade in these areas is untouched by the GSP.

UNCTAD's VIIth Session took place in Geneva in 1987. 141 countries attended the meeting. The main emphasis of the Conference was on the revitalisation, development and growth of international trade, through multi-lateral cooperation, assessment of relevant economic trends and global structural change. Appropriate formulation of policies and measures including key issues in the inter-related areas of resources for development including financial and related monetary problems of the least developed countries were also discussed.

The Conference adopted by consensus the "Final Act", which contains a common assessment of the world economic situation and the agreement on policies. These included (i) resources for development (ii) commodities (iii) international trade and (iv) problems of the least developed countries. The Trade and Development Board was expected to follow up issues in the Uruguay Round of particular concern to the developing countries. Liberalization of textile trade and clothing was sought.

UNCTAD VIII was convened at Cartagena, in February 1992. During the conference it was agreed that UNCTAD
needed to be revitalised by reforming its machinery and working methods and by strengthening its capabilities in addressing the economic and development problems of all countries, particularly developing countries. Sustainable development was emphasized and UNCTAD decided to participate in the Conference on the Environment at Rio de Janeiro. The target of 0.7% of the GNP of developmental countries as Overseas Development Assistance, was also reaffirmed and the need for concessional finance to support structural adjustment recognised. On international trade, market access for textiles of developing countries was urged even at the cost of structural adjustment in developed countries.

Voluntary Export Restrictions, (VERs)

Since the 1970s, several quantitative restrictions have returned in several new forms. The industrialised countries have violated GATT, when they pay subsidies or set VERs (Voluntary Export Restraints). The Multi-Fibre Agreement, though it is a separate instrument, is administered by the GATT. Yet it is clearly inconsistent with the GATT principles. It would be relevant to spend some time on the Multi-Fibre Agreement here.

The Multi-fibre Arrangement (MFA)

This has been an important Arrangement regarding International Trade in Textiles. The MFA (Multi-fibre Arrangement) was a worldwide system of managed trade in textiles and clothing. In 1935, the USA despite high tariffs of 40% to 60% negotiated the first voluntary export quota on Japanese textile exports. In 1961, under GATT the Short Term Cotton Textile Arrangement was negotiated at the behest of USA. This was replaced in October 1962 by the Long Term Arrangement regarding International Trade in Cotton Textiles (LTA), which controlled cotton textile exports for the next ten years. Though a multilateral document, importing countries were allowed to negotiate quotas on a country-by-country basis. In some cases, they could impose unilateral quotas without penalty.

In 1974, the LTA was replaced by the MFA I, (1974-77). The MFA included synthetic fibres. During the pre-1974 period, the productivity in the textile sector had increased
resulting in increasing unemployment in the industrial countries. The **Newer Industrialised Countries (NIC’s)** (the Asian countries) were progressively gaining more market share. The Textile Surveillance Body was established by the GATT to supervise the implementation of the Agreement and to arbitrate disputes arising from it. In the case of MFA I, the USA was willing to make concessions on quantitative restrictions and to accept a fairly liberal MFA.

**MFA-II, 1978-81**

MFA-II reflected the strong protectionist sentiments of the EC. In particular the UK and France, which experienced a 21% increase in textile imports from 1973 to 1977, supported a more restrictive MFA in 1977. More restrictive quotas were allowed, while bilateral arrangements were worked out with all its major suppliers, thereby reducing the imports.

**MFA-III (1982-86)**

MFA-III maintained the earlier restrictions and added more constraints. The USA itself negotiated 41 bilateral agreements with its major suppliers.

**MFA IV (1986-91)**

This was signed in July 1986, and included silk, line, ramie and jute in the arrangement - basically all the natural fibres.

In general over the years, the developing countries have found that the tariffs on industrial products have been falling faster than on products of interest to developing countries. Several non-tariff barriers have also come up. This is one reason why the developing countries have evinced increasing interest in the rounds of discussions in the eighties. This can be seen from Table 7.1.
Table 7.1

FREQUENCY OF USE OF TARIFFS AND QUOTAS

<table>
<thead>
<tr>
<th>Period</th>
<th>Tariff Measures</th>
<th>Quantitative Restrictions</th>
<th>Total</th>
<th>Ratio of Quantative Restrictions to total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1949-58</td>
<td>13</td>
<td>3</td>
<td>16</td>
<td>19</td>
</tr>
<tr>
<td>1959-68</td>
<td>20</td>
<td>16</td>
<td>36</td>
<td>44</td>
</tr>
<tr>
<td>1969-78</td>
<td>15</td>
<td>28</td>
<td>43</td>
<td>65</td>
</tr>
<tr>
<td>1979-86</td>
<td>17</td>
<td>25</td>
<td>42</td>
<td>60</td>
</tr>
</tbody>
</table>


It is clear that the non-tariff measures were on the increase.

The Tokyo Round (1973-79) negotiations

These multilateral trade negotiations have been a landmark in the history of GATT. 99 countries participated in the negotiations which concluded in 1979. This was the first time that various non-tariff measures such as subsidies and countervailing measures, technical barriers to trade, customs valuation, import licensing procedures and the revision of the 1967 GATT anti-dumping code took place. The salient features were as below:-

Tariff Measures

The participating countries agreed to cut tariffs on thousands of industrial and agricultural products. The full implementation of the Tokyo Round cuts were expected to mean that tariffs on manufactures would be around 6.0% in the European Community, 5.4% in Japan and 49% in the United States.
Tariff averages before and after the implementation of the Tokyo Round and percentage changes in tariffs in the major industrial countries are shown below:

**Table 7.2**

*Pre and Post-Tokyo Round Tariffs*

<table>
<thead>
<tr>
<th>Country or Country Group</th>
<th>Tariffs on total imports of finished Manufactures &amp; finished Manufactures</th>
<th>Pre- &amp; Post-Change</th>
<th>Tariffs on imports from developing countries of &amp; finished Manufactures</th>
<th>Pre- &amp; Post-Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Pre-Tokyo</td>
<td>Post-Tokyo</td>
<td>% Pre-Post-Change</td>
<td>Pre-Tokyo</td>
</tr>
<tr>
<td><strong>European Community</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weighted</td>
<td>8.3</td>
<td>6.0</td>
<td>28</td>
<td>8.9</td>
</tr>
<tr>
<td>Simple</td>
<td>9.4</td>
<td>6.4</td>
<td>30</td>
<td>8.5</td>
</tr>
<tr>
<td><strong>Japan</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weighted</td>
<td>10.0</td>
<td>5.4</td>
<td>46</td>
<td>10.0</td>
</tr>
<tr>
<td>Simple</td>
<td>10.8</td>
<td>6.4</td>
<td>41</td>
<td>11.0</td>
</tr>
<tr>
<td><strong>United States</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Weighted</td>
<td>7.0</td>
<td>4.9</td>
<td>30</td>
<td>11.4</td>
</tr>
<tr>
<td>Simple</td>
<td>11.6</td>
<td>6.6</td>
<td>43</td>
<td>12.0</td>
</tr>
</tbody>
</table>


In tariffs, the developing countries were beneficiaries of the non-reciprocal concession in tropical products from a number of developed countries. However, in industrial products they found that almost all the countries had either exempted products of special interest to them such as textiles and leather products or subjected them to lower-than-formula cuts.
NON-TARIFF MEASURES

Non-tariff measures were the significant features of the Tokyo Round negotiations. Governments here began to negotiate new or improved rules on non-tariff barriers. Under the Tokyo Round in 1979, all the agreements provided for mutual consultation and dispute settlement. The negotiations resulted in the following non-tariff measures.

(i) Subsidies

In the case of subsidies, the signatories committed not to use subsidies against the interest of any other signatory. They were also to ensure that countervailing measures did not unjustifiably impede the international trade. These measures could be applied only if the domestic industry requested the Government that the subsidised imports were causing material injury or threatening such injury.

(ii) Standards Code

The Agreement on Technical Barriers to Trade (the Standards Code) contained a number of provisions which aimed at dealing with the special problems which the developing countries encounter in this area. One of the major problems is the question of dissemination of information. The Agreement provides for notifications to be made through the GATT Secretariat and for each country to establish an enquiry point from which interested readers could get information on standards, technical regulations and certification systems.

Although countries are expected to adopt the technical regulation international standards, the Agreement authorised the Committee on Technical Barriers to Trade to grant, specific, time-limited exceptions in whole or in part from the obligations under the Agreement. Preferential tariffs were introduced by the developed countries in 1971, in the form of Generalised System of Preferences through the mechanism of a waiver from the MFN obligation for most developing countries. This was not a satisfactory solution. These barriers commit signatories to ensure that no
Government or body should create unnecessary obstacles to international trade.

(iii) Import Licensing

The Agreement on Import Licensing Procedures laid down that the import licensing procedures should be used in a fair and neutral way. The agreement aims at ensuring that the procedures do not in themselves act as restrictions on exports. The signatory Governments are committed to adopting simple licensing procedures and to administer them fairly.

(iv) The Agreement on Government Procurement

Government procurement aimed at securing greater international competition in the bidding for Government procurement contracts. The Agreement contained provisions on special and differential treatment for developing countries. It is designed so that the parties to the Agreement take into account the development, financial and trade needs of developing countries, in particular the least developed countries. These countries are in need of safeguarding their balance of payments position, promoting the establishment or development of indigenous industries, supporting industrial units and encouraging their economic development.

The Agreement contained detailed rules regarding the invitation and award of Government contracts. The provisions were designed to reduce regulations, and to make procedures and practices relating to Government procurement more transparent. This is to ensure that the home countries do not protect domestic products or suppliers. This would also ensure that they do not discriminate against foreign suppliers or products. The provision was meant to apply to individual Government contracts worth more than about US $1,70,000. It was voluntary and India did not participate in this.

(v) Customs valuation

This sets a fair, uniform and rental system for the valuation of goods for customs purposes. It prohibits the
signatory Governments from the use of arbitrary or fictitious customs values. The code provides a precise revised set of valuation rules.

(vi) Countervailing duties

The new code lays down the conditions under which anti-dumping duties could be imposed as defence against dumped imports. The code brings certain of its provisions with the relevant provisions of the Code or subsidies and countervailing duties.

Table 7.3

The frequency of U.S. Countervailing action 1970-85

<table>
<thead>
<tr>
<th>Year Exports</th>
<th>No of Affirma-Negative Pending Average</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Initiations</td>
</tr>
<tr>
<td>1970 Industrial -74 countries</td>
<td>9 8 1</td>
</tr>
<tr>
<td>Developing countries</td>
<td>2 2</td>
</tr>
<tr>
<td>1975 Industrial -79 countries</td>
<td>59 20 39</td>
</tr>
<tr>
<td>Developing countries</td>
<td>45 18 27</td>
</tr>
<tr>
<td>1980 Industrial -85 countries</td>
<td>63 30(19) 25 8 10.5</td>
</tr>
<tr>
<td>Developing countries</td>
<td>108 69(26) 30 9 11.5</td>
</tr>
</tbody>
</table>


The Agreement generally reaffirmed the principle in Article VI of the General Agreement which stipulates that such duties should be imposed only when it is established that the effect of subsidized imports is such as to cause or threaten to cause injury to an established domestic industry. It lays down the criterion for determining injury
in such cases. The Code on subsidies and countervailing duties was negotiated during the Tokyo Round with the aim of ensuring that subsidies would not harm the interests of trading partners. Countervailing duty procedures would not unjustifiably impede international trade. The Code was not very successful, as the disputes continued to rise. This can be seen from Table 7.3.

Similarly the frequency of anti-dumping cases, 1980-85 is shown in the Table 7.4 below:

Table 7.4

<table>
<thead>
<tr>
<th>Initiated by</th>
<th>Number of cases</th>
<th>Against</th>
<th>Number of cases</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>393</td>
<td>EC</td>
<td>276</td>
</tr>
<tr>
<td>USA</td>
<td>280</td>
<td>USA</td>
<td>105</td>
</tr>
<tr>
<td>EC</td>
<td>254</td>
<td>Japan</td>
<td>96</td>
</tr>
<tr>
<td>Canada</td>
<td>219</td>
<td>ROK</td>
<td>71</td>
</tr>
<tr>
<td>Sweden</td>
<td>4</td>
<td>China</td>
<td>58</td>
</tr>
<tr>
<td>Finland</td>
<td>3</td>
<td>Spain</td>
<td>43</td>
</tr>
<tr>
<td>Austria</td>
<td>1</td>
<td>Brazil</td>
<td>39</td>
</tr>
<tr>
<td>Spain</td>
<td>1</td>
<td>Czechoslovakia</td>
<td>34</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Canada</td>
<td>32</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sweden</td>
<td>16</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Austria</td>
<td>11</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Finland</td>
<td>9</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Others (44)</td>
<td>398</td>
</tr>
</tbody>
</table>


Increase in regional trading blocs.

Despite the negotiations going on in the Tokyo Round, the EEC in March 1975 informed GATT that the LOME Convention was signed between the EEC and 46 developing countries in Africa, the Caribbean and the Pacific. Signed in 1975, it was renewed in 1979 and 1984. It eventually gave 66 African, Caribbean and Pacific (ACP) countries preferential access to the EC market. Unlike the Generalised system of
Preferences, it covers more than simple tariff reductions. It included the relaxation of some non-tariff barriers, less stringent enforcement of trade regulations, and exemptions from certain multilateral trade agreements such as the MFA. The EC could however suspend any concession unilaterally.

In 1975 the Bangkok Agreement was signed by 7 countries: Bangladesh, India, Korea, Laos, Phillipines, Sri Lanka and Thailand. In 1976 the Agreement came into force and provided for the exchange of tariff and non-tariff concessions, industrial cooperation and special treatment.

In 1977 the Agreement on ASEAN Preferential Trading Arrangement came into force. ASEAN (Association of South East Asian Nations (ASEAN) included Indonesia, Malaysia, Phillipines, Singapore and Thailand. The agreement covered (among other things) long-term quantity contract, preference in procurement by ASEAN government entities, extension of tariff preferences and liberalisation of preferential arrangements for commodities such as rice and crude oil.

**Safeguards**

GATT also provides proper safeguards for the domestic industry and trade. Under the GATT Article XIX the use of either a tariff or a quota is permitted for temporary protections. The quota has been the normal instrument of choice. (Table 7.5 below)

**Table 7.5**

<table>
<thead>
<tr>
<th>Period</th>
<th>Tariff measures</th>
<th>Quantitative measures</th>
<th>Total</th>
<th>Ratio of 'q' measures to total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1949-58</td>
<td>13</td>
<td>3</td>
<td>16</td>
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<td>1969-78</td>
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<td>28</td>
<td>43</td>
<td>65</td>
</tr>
<tr>
<td>1979-86</td>
<td>17</td>
<td>25</td>
<td>42</td>
<td>60</td>
</tr>
</tbody>
</table>

The Tokyo Round called for an examination of the adequacy of the multilateral safeguard system, in particular of the way in which Art XIX is applied. This issue was not resolved in the Tokyo Round and a Committee was formed within GATT to continue the safeguards negotiation.

THE URUGUAY ROUND

There has been a great amount of discussion and debate regarding the Uruguay Round of multilateral trade negotiations and the Dunkel draft.

The Uruguay Round derives its name from the fact that the Negotiations were launched at a special session of the Contracting Parties held in Punta del Este, Uruguay in September 1986. The negotiations were held at the level of ministers of the respective countries. The Ministerial Declaration in Punta del Esta in Uruguay, agreed that the negotiations would be completed in 3 years. Instead in reality they took 7 1/2 years. The Marrakesh Declaration was eventually signed on 15th April 1994.

About 110 countries are members of the GATT, accounting for ninety per cent of World Trade. The seemingly democratic structure of GATT conceals the power relations which determine the course of negotiations. A lot of the bargaining takes place behind the scenes - between the three powerful trading partners - the US, EC and Japan, during the meetings of the Group of Seven (3-7) industrial countries.

In the Uruguay Round, a Trade Negotiations Committee (TNC) was set up to monitor the overall negotiations. The TNC had two Chairmen, one at the official level and the other at the ministerial level. Due to opposition from developing countries like Brazil and India, a Group for Services was separately established, which also reported to the TNC.

Initially the mandate was negotiations in 15 areas. In order to focus on the negotiations better these were reshuffled into 7 new areas, as shown in Table 7.6.
Table 7.6

Areas of negotiations in the Uruguay Round

<table>
<thead>
<tr>
<th>Original areas of negotiations</th>
<th>Reshuffled scheme of negotiations.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Tariffs</td>
<td></td>
</tr>
<tr>
<td>2. Non-Tariff areas</td>
<td></td>
</tr>
<tr>
<td>3. Tropical products</td>
<td>1. Market Access</td>
</tr>
<tr>
<td>4. Natural resource based</td>
<td>2. Agriculture</td>
</tr>
<tr>
<td>5. Textile and clothing</td>
<td>3. Textiles &amp; clothing</td>
</tr>
<tr>
<td>6. Agriculture</td>
<td>4. Services</td>
</tr>
<tr>
<td>7. GATT articles</td>
<td>5. Rule making including</td>
</tr>
<tr>
<td>8. Safeguards</td>
<td>subsidies, countervailing</td>
</tr>
<tr>
<td>9. MTN Agreements &amp; Arrangements</td>
<td>measures, anti-dumping,</td>
</tr>
<tr>
<td></td>
<td>safe-guards, preshipment</td>
</tr>
<tr>
<td></td>
<td>inspection, rules of</td>
</tr>
<tr>
<td>10. Subsidies &amp; Counter-</td>
<td>origin technical barriers</td>
</tr>
<tr>
<td>vailing measures</td>
<td>to trade import licensing</td>
</tr>
<tr>
<td>11. Dispute settlement</td>
<td>procedures, customs</td>
</tr>
<tr>
<td>12. Trade related intellectual</td>
<td>valuation, government</td>
</tr>
<tr>
<td>property rights (TRIPs)</td>
<td>procurement, GATT</td>
</tr>
<tr>
<td>13. Trade related investment</td>
<td>articles.</td>
</tr>
<tr>
<td>measures (TRIMS)</td>
<td>6. TRIMs and TRIPs</td>
</tr>
<tr>
<td>14. Functioning of the GATT</td>
<td>7. Dispute settlement and</td>
</tr>
<tr>
<td>System (FOGS)</td>
<td>final act, including</td>
</tr>
<tr>
<td></td>
<td>FOGS.</td>
</tr>
</tbody>
</table>

Source: Debroy, Bibek (1992)-Pages (42-43)

A meeting of the TNC at the Ministerial level was held at Montreal in December 1988. The next meeting was held at Brussels in December 1990, but an impasse was reached over agriculture. Discussions started in early 1991, and continued through the whole of 1991. On 20th December 1991, the Director General Mr Dunkel submitted a document containing a package of compromise proposals. This was termed the Dunkel Draft, although it was a combination of the efforts of several people. Mr Dunkel made it clear that his proposals formed a single package, which needed to be accepted as such. The Final Act embodying the results of the
Uruguay Round was signed in Marrakesh on 15th April 1994

The various areas which were of relevance to India are as below.

**Market access (Tariffs)**

The Dunkel Text itself did not stipulate the extent to which individual countries were to reduce tariffs. However, as in the past, countries exchanged concessions on tariffs. In the past, India had benefitted greatly from the reduction of tariffs on industrial products, by almost all the major trading countries.

Normal tariff levels for industrial products in many developed /developing countries are in the region of 5% to 25%. India, in line with the direction of the existing economic policy, offered reduction of tariffs in respect of industrial raw materials, intermediates and capital goods (with a few exceptions) from the then existing levels to a current level not exceeding 40%. Where existing customs duty was less than 40%, the offer was to bind the tariff at 25%. The reduction would be implemented in a graduated manner over a period of six years. These negotiations did not pose a problem, since India already planned to follow the recommendations of the Chelliah Committee of gradually reducing the tariffs. It is therefore part of the economic reform plans proposed by the Indian government. Tariff reduction was to be carried out in 6 annual instalments from January 1, 1996, with the exception of textiles where reduction will be over 10 years. Tariff reductions by other countries will also help our exports.

**TEXTILES**

A major achievement of the Round has been that a timetable has been set for phasing out the Multi-Fibre Arrangement (MFA). Under this quotas which have been imposed by the USA and the E.C. on imports of textiles and garments would be phased out, in 10 years. The Agreement is backloaded in the sense that most of the liberalisation would occur only at the end of the transition period. However, integration of the Textile agreement in GATT itself has been an achievement. There will be very little
liberalisation till 2000.

The agreement envisages complete phasing out of the Multi-Fibre Agreement (MFA) in 10 years. This transition period is divided into three stages of three, four and three years. On 1.1.1995, each Member was expected to integrate products which account for not less than 16% of the total volume of the Members 1990 imports of the products covered by the agreement. The products which are integrated would cover items from each of the following groups: tops and yarns, fabrics, made-up textile products and clothing.

On 1.1.1999 products which accounted for not less than 17% of the total volume of the Members' 1990 imports would be integrated. On 1.1.2002 the extent would be not less than 18% of the volume of the Members' 1990 products. On 1.1.2005, all restrictions under the Agreement would be terminated.

During the process of integration, the growth rates on quotas on non-integrated sectors would be increased by 16%, 25% and 27% in the three stages. These growth rates refer not to growth in the quotas per se, but an acceleration in the existing quota rates.

India has a traditional comparative advantage in the textiles sector. Due to its overall competitiveness in this sector, India stands to gain substantially from the Agreement. However it has generally been felt that the transitional period of ten years is too long. The Agreement is back-loaded and importing countries may not be able to complete the integration at the end. In order to oversee the implementation of the Agreement, a Textiles Monitoring Body (TMB) will be set up and existing restrictions have to be notified to the TMB.

AGRICULTURE

This has been a very protected sector both for the developed and developing countries. This is a very important sector for our country. Even in the GATT Round, the deadlock on agricultural subsidies between the U.S.A. and E.C. was responsible for the failure in reaching the earlier deadline of end-1950.
(i) Market Access

There are specific national commitments for countries to open up their markets to imports through tariff reductions. The stipulation is that protection against imports must be reduced, but for developing countries, the reduction must be 24% over 10 years. This, however would not apply if quantitative restrictions have to be maintained for balance of payments reasons. Similarly the stipulation of minimum access of 3 to 5% of domestic consumption is not necessary, if the quota restrictions exist for BOP reasons.

(ii) Subsidies

The Agreement provides for clubbing of product and non-product subsidies, which will allow the flexibility to operate subsidies under the permissible ceiling of 10% of the value of agricultural production. The Agreement utilizes an index known as the "Aggregate Measurement of Support (AMS)". This seeks to provide an overall measure of the subsidies valued as a share of production. While domestic and trade policies include customs duties, quotas, domestic price support, export enhancement and price stabilisation policies, farm subsidies could include inputs like fertilizers, power, credit, irrigation or direct "payments" to them.

The "total AMS" is the sum of all domestic support provided in favour of agricultural producers, calculated as the sum of all product specific and non-product specific aggregate measurements of support. The product-specific and non-product specific domestic support, as measured by the AMS, would have to be reduced, if they exceeded the figure of 5%. For developing countries the percentage is higher than 10%.

In the case of almost all the products, the product-specific subsidies are well below the threshold level of 10%. Certain support policies such as research, pest and disease control etc. are all exempted from this. The subsidies in India which get covered are fertilizer subsidy, electricity subsidy, water rate subsidy, credit subsidy and seed subsidy. As pointed out, India is not required to
reduce its subsidy.

The Ministry of Commerce’s calculation is as follows:
For the base-period, 1986-89, the total value of agricultural production was Rs 1,13,000 crores;
Ten percent of this was Rs 11,300 crores;
The average annual non-product-specific subsidy was therefore Rs 5,300 crores.
The average annual product-specific subsidy calculated as the difference between the international reference price and the domestic support price multiplied by the volume of production was negative and equal to (-)Rs 25,161 crores.
Thus the resultant aggregate measure of support is (-) Rs25,161crs+Rs5,300crs =(-)Rs19,861crs.
The differential available for subsidisation of agriculture as per 1986-89 base without violating the GATT agreement i.e. Rs 19,861crs + Rs 11,300crs = Rs 31,161 crs.
Thus India has the leeway of agricultural subsidisation by Rs 31,161 crs without falling foul of the Agreement.

(iii) Export Subsidies

A number of export subsidy practices have been listed for reduction commitments. Outlays and quantities have to be reduced from 24% to 21%. Developing countries have been exempted from some subsidy cuts. The only major export subsidy that we have for agricultural products is Section 80 HHC of the Income Tax Act. But this subsidy is not attracted by the reduction commitments for export subsidies.

(iv) The Public Distribution System

The agreement on agriculture is not concerned with consumer subsidies. The Text explicitly provides now that there will be no obligation to alter our PDS in any way.

(v) Traditional Rights of Farmers

It has been confirmed in the Text that farmers’ rights can be protected through a proper national (sui-generis) legislation. The use of protected seeds for sowing or traditional exchange will be in order.
TRADE RELATED INVESTMENT MEASURES (TRIMs)

This Agreement, after the negotiations, did not impose any obligation relating to controls on foreign direct investment or ceilings on foreign equity holding. Developing countries facing balance of payments, are exempt from the need to remove stipulations which are prohibited under the agreement, like export commitments.

However, no requirements of local content could be applied. India has already in the context of the reform measures dispensed with the "Phased Manufacturing Programme", which imposed local content obligations on foreign enterprises. There was earlier a condition that the indigenous content in the manufacture should gradually increase.

Dispute Settlement

The Uruguay Round Agreement sought to improve the process of resolution of disputes among countries relating to international trade. This process has been improved by making the dispute settlement rules more time-bound, automatic and judicial in nature.

W.T.O is expected to provide a forum for negotiations among member countries relating to multilateral trade relations. It would monitor trade policies of countries and to ensure that they are in line with GATT principles. The W.T.O. would also act as a Dispute Settlement Body.

Services

The previous GATT rounds confined themselves only to liberalization of trade in goods. The industrialised countries however, kept exerting pressure that trade in services should also be liberalised. This pressure is due to their feeling that while they are competitive in areas of services such as banking, insurance etc., they are unable to take advantage of this due to several barriers. Consequently developing countries like India and Brazil had to agree with great reluctance to the inclusion of trade in services in the Uruguay Round. This was done during the course of a different set of negotiations from that for goods.
The draft agreement on trade in services deals with two basic principles sought to be applied to all services. These are the Most Favoured Nation principle and transparency. The MFN principle implies that each country will give equal treatment to other countries which are signatories to the agreement. Transparency requires every country to promptly publish all relevant laws, regulations, administrative guidelines and other decisions, rulings or measures of general application pertaining to the area of services.

In respect of market access, countries are free to negotiate the specific services which they wish to seek or to provide market access. There is no general obligation to liberalise every service sector.

There have been apprehensions that India would be forced to open up banking, insurance and basic telecommunication services. There are also security implications in the basic telecom sector. The provisions for mobility of personnel to other countries is not adequate. The progressive liberalisation of services envisaged in the Uruguay Round does conflict with national policy. Negotiations have been held on financial services and telecommunications. The concerned Ministries are in the process of issuing guidelines for the various areas.

Since India has an advantage in skilled labour services, there is considerable potential in this area, specially in fields like software, construction, consultancy and medical services. This could however be achieved only through negotiations.

**TRADE RELATED INTELLECTUAL PROPERTY RIGHTS (TRIPs)**

There are 7 areas of intellectual property rights which are covered by the TRIPs agreement, namely copyright, trade marks, trade secrets, industrial designs, integrated circuits, geographical indications and patents. In 6 areas (except patents) our policies, law and regulations, as well as our administrative and judicial system, are on par with those obtaining in the rest of the world. The Copyright Act has recently been amended to take care of our
requirements and also our concerns. A new Amendment Bill amending the Trademarks Act is to placed in the Lok Sabha, as the old Bill lapsed with the constitution of the new Lok Sabha.

PATENTS

It is only in the area of patents, and that too primarily in the area of pharmaceutical patents, that there is a sharp divergence between the norms and standards proposed by the Agreement and the Indian Patents Act. The Indian patent law provides only for process patents and not for product patents. Product patents will have to be introduced by India. However, a 10-year transition period for the introduction of product patents in drugs, chemicals and food products have been allowed, so that it is only by 2005 AD that our Indian Patent Law will have to be amended.

However in the case of pharmaceutical and agrochemical products, India will have to provide E.M.Rs (or Exclusive Marketing Rights) for 5 years for those products which have patents in any other country after the coming into force of the TRIPS agreement. This is called "pipeline" protection and will apply only to newly patented products coming into the market, during the transition period of ten years. It does not apply to existing patented products. With the constitution of the new Lok Sabha, the pending bill for amending the Patent Act has lapsed. The Amendment Bill is to be put up afresh in the Lok Sabha.

Micro-organisms

The Agreement requires parties to provide for patentability of micro-organisms. Micro-organisms have not however been defined. India had proposed that naturally occurring genetic material, howsoever derived may be excluded from patentability. When we draft our patent law, therefore, we intend to keep this provision.

Plant variety Protection

Parties are required to provide protection either through a sui-generis system or through patenting or a combination of the two. We have decided to adopt only a
sui-generis system for which a legislation is proposed to be introduced shortly. The main difference between patenting and sui-generis system is that, under the former, the right-holder can exclude others from making, using or selling the protected product during the period of protection. In a sui-generis system, all these rights are considerably diluted.

**GATT RULES**

The Agreement on Anti-Dumping provides that at least 50% of the domestic industry should be consulted and that 25% of domestic industry must support it before the Anti-Dumping investigation can be initiated. If the margin on dumping is less than 2% no investigation can be taken up. If dumped imports from a particular country are less than 3% of the total imports and if the total share of countries with imports of under 3% is below 7% then also no anti-dumping investigation can be taken up.

The concerns in respect of India were:

1. whether this would affect the farmer's right to retain a part of his crop for use as seed in subsequent crops. It has been assured that there would be no problem in respect of this.

2. whether the drug prices in India would shoot up because of product patents in the pharmaceutical sector. The viewpoint of some is, that the prices of drugs could shoot up. The alternative view is that only new drugs will be covered by patents in the future. By the time a new drug goes through all the clinical trials and is successful, it would mean the passage of another 5-6 years. Consequently at any point of time the ratio of drugs covered by patents would not be small.

The positive point is that a strong intellectual property protection system enhances the prospects of agreements between Indian and foreign firms, particularly in technology intensive sectors.
REGIONAL TRADING BLOCS AND OPPORTUNITIES FOR INDIA

There have been rapid changes in the international economic environment in the late 80’s and the early 90’s. At the corporate level, there is an increasing bid for globalisation, but at the level of countries, regionalism is continuously on the increase. This was the evolution of new regional blocs and the strengthening of the existing regional blocs. These were based on the success story of the European Community (established in 1957) and its movement towards the emergence of a single economic market by the end of 1992. On the other hand, the conclusion of the Uruguay Round of talks took a very long time i.e. from 1986 to 1994. The major regional blocs, which are significant and have emerged in the course of the last few years are the European Commission (EC), North American Free Trade Area (NAFTA), Association of South East Asian Nations (ASEAN), Gulf Cooperation Council (GCC) and South Asian Association for Regional Cooperation (SAARC).

The first impact of the trading blocs is to set up local regional barriers to the movement of trade. This is because each bloc establishes its own system of preferences. The growth of these blocs also provides a challenge. There is a view that trade within the blocs, is often an additionality, and does not necessarily affect trade to other countries. However, India will have to make an effort to enter these markets in order to derive benefit.

SINGAPORE MINISTERIAL CONFERENCE

The First Ministerial Conference of the World Trade Organisation was held at Singapore from 9-13 December 1996. This Conference was held in compliance with Article IV of the Marrakesh Agreement establishing the W.T.O. This stipulates that the Ministerial Conference would meet at least once in every two years. There are presently 128 members of the W.T.O. in addition to 34 Governments and 49 international organisations having observer status.

Apart from the implementation of the existing agreements, it was expected to discuss further liberalisation and the new future work programme. In the...
area of implementation, a major concern related to the proper implementation of the Agreement on Textiles and Clothing (ATC). The Ministerial Declaration also mentioned its commitment to the implementation of the ATC and to respect the time-frames established in the various WTO Agreements.

An area of liberalisation proposed was on Information Technology Agreement. India maintained that subject to the interests of domestic producers being adequately safeguarded, India could consider joining the programme of phased tariff reductions. At the same time, India urged that the rules for the movement of skilled persons working in the sector should also be liberalised. Due to paucity of time to negotiate, India did not join the Agreement which was initialled by 13 countries at Singapore.

**Major Focus**

However, the major focus of the discussions at Singapore related to the future work programme of the W.T.O. which included new issues. These new issues included:

1. Investment
2. Competition Policy
3. Core Labour Standards
4. Transparency in Government procurement
5. Trade facilitation.

**Investment**

This was a significant issue. Around early 1995, the Organisation of Economic Development (OECD), which represents 20 developed countries agreed to hold negotiations for drawing up a Multilateral Agreement on investments. Some of these countries contemplated that this issue could be taken up in the WTO, instead of in the OECD. This work has been taken up since. At Singapore however, Japan and Canada and a few other developed countries followed up their proposal of starting an educative process to look at all issues connected with investment, considering a trade and investment linkage.

India has resisted any attempt to establish such a
linkage between trade and investment. It has maintained that no single investment framework can meet the specific requirements of countries, which are at different stages of development. Further it is for each individual country to decide as to what should be its policy regime for attracting foreign direct investment.

As a result of India's stand, the Conference only mentioned that five years after the coming into force of the WTO Agreement, i.e. in 2000, there would be consideration of whether the Agreement needed to be complemented with the provisions on the investment policy and the competition policy. The SMC agreed to establish a Working Group to examine the relationship between trade and investment. It also agreed to establish a Working Group to study issues relating to the interaction between trade and competition policy, including anti-competitive practices, in order to identify any areas that may merit further consideration in the WTO framework. These groups would draw upon each other's work if necessary and also draw upon and be without prejudice to the work in UNCTAD and other appropriate intergovernmental fora. It was also decided that future negotiations, if any, regarding multilateral disciplines in these areas will take place only after explicit consensus decision is taken among WTO members regarding such negotiations.

Core Labour Standards

This was an important and sensitive issue. While renewing the commitment to core Labour Standards, the SMC observed that International Labour Organisation is the competent body to deal with these standards. The SMC affirmed the WTO support for the ILO, but rejected the use of labour standards for protectionist purposes. It was agreed that the comparative advantage of countries, particularly low-wage developing countries, must in no way be put into question.

Transparency in Government Procurement

The SMC agreed to establish a Working Group to conduct a study on transparency in Government practices. These would also take into account national policies, and elements for inclusion in an appropriate agreement.
Trade Facilitation

The SMC directed the Council for Trade in Goods to undertake exploratory and analytical work.

India's stand at the SMC generated a lot of debate in Parliament, which happened to be in session when the Conference took place. There was an uproar from the Opposition parties, that India had not put up adequate resistance on investment and labour standards to the pressure of the developed countries. The Commerce Minister had mentioned that, "It was at India's specific insistence that strict conditionalities were included bringing the entire examination under the existing WTO provisions and clearly stipulating that no negotiations could automatically be initiated in these areas without the explicit consensus of WTO Members."

In respect of the Patents Act, the draft Bill for the amending the Act lapsed with the life of the last Lok Sabha drawing to a close. Earlier, the Act had been amended by an Ordinance, but the Ordinance providing for Exclusive Marketing Rights, and Mail-Box facility could not be replaced. Presently Government has been continuing a process of discussions between all the parties. As the compliance of the pipeline protection requirement could not be fulfilled, the U.S.A. has sought to move the W.T.O through the Dispute Settlement Mechanism, regarding the non-fulfilment of the obligation. A panel has been constituted to go into the case.

In conclusion, the international environment is fast changing. It is becoming increasingly difficult for a country to avoid the impact of events occurring in the world. The only way open, is to be aware of the reality of the situation, and to equip the country to cope with international pressures.

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Notes

1. Thakur, D. (Page 67) - At the time of its formation, it was considered to be an interim arrangement pending the formation of a U.N. agency to replace it. When such an agency failed to emerge, GATT was amplified and enlarged at several succeeding negotiations.

2. Thakur, Chapter 2 - The chapter deals with the International Economic Institutions and also covers issues relating to GATT and UNCTAD.


4. Thakur, D. - Page 68.

5. Thakur, D. - Page 73 - The developing countries which joined GATT, were critical of it. They generally complained that despite the best efforts to reduce or to eliminate trade barriers, the attempts tended to benefit the developed countries of the world.

6. World Development Report (1987) - This important document, which is published by the World Bank, devoted several chapters in this edition to trade-related issues and protectionism.


8. Dunkel - This is known as the Dunkel Draft after the Director-General of Gatt.


10. Mr. Ramaiah explained India's stand in Parliament on 16th December 1996.