

CHAPTER VI

WTO AND INDIAN INDUSTRY

6.1 IMPACT OF WTO AGREEMENT ON INDIAN TEXTILE AND CLOTHING INDUSTRY

Besides agriculture, textile and clothing is the only industry, which has a separate and independent agreement, multilaterally negotiated, under the aegis of WTO. This is hardly surprising, considering the significant share of textiles and clothing in the international trade basket of several, specially developing countries.

Indian textile and clothing industry contributes almost 4 per cent of national GDP, and 20 per cent of manufacturing value added. It also earns one-third of India's foreign exchange, and employs over 6.5 million persons directly as well as indirectly. It is the most important Indian industry, after agriculture.

The international trade in textile and clothing is being transformed significantly owing to the phasing out of the Multifibre Arrangement (MFA) era, and ushering in of the era of quota-free trade. This has jolted the entire pattern of global trade suddenly become busy preparing its own national strategy for competitiveness in the new scheme of global trade. The Agreement in Textiles and Clothing (ATC) remains the principal driver of such a mammoth economic earthquake in this sector.
International trade in textiles and clothing is a classic exception to the objective of GATT all along its history. After the end of the Second World War, restrictions on cotton textiles began to be applied under Voluntary export Restraints. At a GATT Ministerial meeting in November 1959, the US pointed about that sharp increases in imports over a brief period of time could have serious economic, social and political repercussions in the importing country. It was at the behest of the U.S. that the Short Term Cotton Arrangement (STA) came for a year in 1961. Textiles came to be acknowledged by GATT as a "special case". The STA was followed by Long Term Arrangement (LTA) which was in force from 1962 to 1973, which, in turn, was followed by the Arrangement Regarding International Trade in Textiles, better known as Multifibre Arrangement (MFA). This remained in force from January 1, 1974 to December 31, 1994. These arrangements set aside for the sector, the rules and disciplines of Articles XI (General Elimination of Quantitative Restrictions) and XIX (Emergency Action on Imports of Particular Products); the principle of Most Favoured Nation (MFN) treatment was thrown out of the window.

While the arrangements began by restricting only cotton goods, they soon spread their tentacles to wool as well as man-made fibres, and by 1986, had encompassed practically every fibre in existence. Simultaneously, several countries subjected to quotas become 'addicted' to them and quota traders emerged as a lobby.
often more powerful than the manufacturers themselves. Indian textile and clothing industry is a case in point.

Thus, it meaningful liberalization to trade was to be achieved at the Uruguay Round (UR), the MFA had to go, and the rules applying to industrial goods had to be extended to textiles and clothing. It is against this backdrop that the Agreement in Textiles and Clothing (ATC) assumes significance. Specifically, ATC presents some definitive advantages over the MFA era, viz.,

- It puts an end to the long life of MFA.
- It brings textiles and clothing at par with all other industrial products, and the sector ceases to be a "special case."
- It is self-destructive, since it definitively extinguishes itself on December 31, 2004.

**IMPLICATIONS FOR INDIAN TEXTILE AND CLOTHING INDUSTRY**

Very few industries are as ubiquitous as textile and clothing industry. A such, the intentions of the primarily importing countries in the developed world are still as protectionist as they historically have been. However, one big difference between yester years (MFA era) and the era of ATC is the explicit implementation of the "General Elimination of Quantitative Restrictions" (Art. XI) that is enshrined in GATT 1994 through ATC. The protectionist tools, have now changed, even through the intentions remain unchanged. This is evident in the scores of issues that have arisen during the actual implementation of the ATC by the developed countries,
notably the US and the EU. They have followed the ATC in letter but not necessarily in spirit.

1. **The Phoney War-Back Loaded Integration Schedule**

The product integration under ATC calls for fixed percentage of all (MFA-restrained plus non-restrained categories) the 1990-level imports of textiles and clothing to be integrated at designated dates.

USA has published their ten-year integration schedule. In 1990, 36.85% HS lines of all textile and clothing imports into USA were non-restrained. It was 33.64% for the EU. Therefore, in case of both USA and EU, not a single product surrendered for integration on January 1, 1995 was restricted by quota! At stage II (beginning January 1, 1998) also, only a few products surrendered were ever subject to quota, and almost all of these quotas had been severely under utilised in the previous year.

2. **Market Access Commitments**

Aside from quantitative restrictions (Qrs), WTO members have offered greater and more predictable domestic market access through tariff bindings and reduction commitments. Tables 3 and 4 below illustrate the number of HS lines that have been now 'bound' and the tariff-reduction commitments as a result of UR.

Compared to 78% HS tariff lines that were bound in the developed countries before UR, 99% have been bound following the UR. Post-UR bindings are 73% (up from 21%) in the case of
developing counties. This is no mean achievement. India too has bound 67% of its 5113 tariff lines, up from before UR.

However, such perceived benefits flowing from the WTO are partially illusory, specially in the context of the textile and clothing sector. Averages conceal peaks. Sector-wise tariffs-applied as well as bound-reflects the peak tariffs that textile and clothing sector attracts in developed countries.

Textile and clothing remains to attract the highest set of bound duties in developed countries - 11 percent against an average of 3.7 per cent on all merchandise. Developing countries are no exception either.

3. **Regional Trading Arrangements as Trade Blocs**

Over 115 Regional Trading Arrangements (RTAs)- including the EU and NAFTA are in place as of date. Article XXIV of GATT 1994 provides for the formation of Customs Unions and Free Trade Areas provided certain conditions are fulfilled. Originally intended to be a stepping stone to global free trade, RTAs have, in practice, led more to trade diversion, than trade creation, much to the detriment of the welfare enhancing effects of free global trade. The non-harmonization of rules of origin has exacerbated this exception to the principle of MFN.

This is very clearly reflected in the case of both NAFTA-CBI and EU, which have encouraged OPT arrangements by promulgating skewed rules of origin clauses in the agreements forming the RTAs.
The inescapable conclusion, therefore, is that countries such as India are getting more and more marginalized in the global scheme of trade patterns in the textile and clothing sector. Increasingly, apparel imports into USA and EU is of preferential origin.

4. Growing Threat from Imports

That import of textile has grown remarkably in the last couple of years is a well-known fact. However, what is perhaps not as well known is that the growth rate of import of textiles into India has been more rapid before WTO came into existence than after India's commitments to reduce its import tariffs came into effect! It is not correct to blame WTO for such import surges in textiles in recent times.

Undoubtedly, the exchange rate devaluation in 1991, and the consequent depreciation of the Indian Rupee played a role in increased import value reported in Rupee terms in Table 8. However, data on total textile imports in US$ terms do not reflect a different story (Table 9). Unfortunately, no disaggregated data on import of textiles is readily available in order to arrive at a reasoned judgment.

Perhaps, the hue and cry being raised by the domestic industry owes itself to the perception that India's commitments to WTO, and its bilateral agreements with USA and EU relating to removal of ORs and reduction in bound and applied tariff rates, is
the chief culprit for the rising import values. That certainly is not
the case.

Having mentioned that, it is anybody's case that India has
been losing competitiveness in textiles and clothing globally. And
with the emerging trade patterns, the pressure to become globally
competitive is stronger than ever before, while the time to attain
such global competitiveness is increasingly shorter now.

5. **Emergence of Non-Tariff Barriers**

While some of the "grey measures" like Voluntary Export
Restraints are outright prohibited under the GATT 1994, some
other forms of Non-Tariff measures (NTMs), which are sanctioned
by the WTO, have assumed importance in the context of global
trade n general, and that in textile and clothing in particular. These
include administrative measures like customs valuation, extensive
documentation, inspection requirements, blacklisting of companies
and attempts to link trade with social and environmental issues,
and national record of Human Rights.

The developing countries believe that the developed countries
could create trade barriers by using trade sanctions for non-
compliance with non-trade objectives. Therefore, there are
legitimate concerns whether a trading system in which trade
barriers were generally declining for the last fifty years, would again
experience higher barriers in the garb of non-trade issues. The
experience of the ATC implementation over the last quinquennium

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since 1995 does indicate that such concerns may, indeed, be very real.

Hence the conclusion that we have found on the basis of questionnaire is that the Integration of textile and clothing into GATT 1994, according to the plan laid out in the ATC, would definitely increase the magnitude of global textile and clothing trade. That clothing would be the engine of growth of such massive trade also appears to be quite clear. Market access to WTO member countries would become more predictable (with bound tariffs) and transparent (owing to Trade Policy Review Mechanism of GATT 1994). Moreover, with progressive reduction in tariffs themselves, the world is likely to see its massive price-effect on trading volumes.

6.2 NEW BARRIERS TO TRADE UNDER WTO

One of the most important issues in the GATT/WTO agreement has been the inclusion of agricultural trade into its provisions. This is for the first time in the history of GATT that agricultural trade has been brought into the international forum. This inclusion had meant a particularly serious development for the developing countries, which are highly dependent on their farm sector not only for export earnings but also for people incomes and employment. It is not that the inclusion of agricultural trade into the WTO framework itself is being objected to, but the whole gamut of issues like subsidies, intellectual property rights, investments,
and new trade barriers like environment, and labour standards become controversial as soon as agriculture is brought in.

**TBT and SPS Measures**

The technical barriers to trade are regulations and standards governing the sale of products into national markets, which have, as their primary objective, the correction of market inefficiencies stemming from externalities associated with production, distribution, and consumption of these products. These externalities may be regional, national, transnational or global. These barriers include measures that protect public interest such as health, safety, environment and social cohesion. These could be food safety measures, environmental measures or quality standards. Depending on the policy instrument, TBT could take the shape of import bans (total or partial), technical specifications like process, product or packaging standards, or information remedies like labeling requirements. They could apply either to domestic as well as imported products, or only imports or some imports. The compliance with these measures could mean either loss of markets or higher costs to the importers (Roberts, 1999). In brief, the agreement on TBT aims to check misuse of mandatory product standards.

The WTO agreement on TBT sets standards for labeling and packaging of agricultural products as recommended by the Codex Alimentarius Commission (CAC). The CAC, on which both the TBT and the SPS agreements are based, was established by FAO and
WHO in 1962 to recommend food safety and labelling standards and nutritional labeling standards. After this, in the Tokyo Round of GATT, an agreement on technical barriers to trade was negotiated. The TBT agreement which has now been signed by all the WTO members is applicable to all products including agricultural goods and food but its provisions do not apply to SPS measures (Swinbank, 1999). Besides labeling and packaging, the TBT agreements covers quality requirement for fresh food products, and labeling of textiles in the agro-processing sector (Chawla and Kumar, 1997). Finally, the TBT agreement enjoins upon the countries to establish inquiry points; in India, the bureau of Indian standards is to serve as an inquiry point.

Although the public debate on the use of technical barriers to trade has focused on the use of these measures to protect consumer and the environment interests, a large number of these measures actually protect the commercial interest of producers by reducing the probability of biological risks to crops and livestock (Roberts, 1999). There is no doubt that TBT will remain an important issue in international regulatory and trade policy for the foreseeable future.

The SPS agreement which reaffirms the right of countries to set their own health and safety standards, provided that they are justifiable on scientific grounds and do not result in unjustified barriers to trade, includes any measure that:
(a) protects animal or plant life or health within the territory of the member from risks arising from the entry, establishment or spread of pests, diseases, disease-carrying organism, or disease-causing organisms;

(b) protects human or animal life within the territory of the member from risks arising from additives, contaminants, toxins, or disease-carrying organisms in food, beverages or foodstuffs;

(c) protects human life or health within the territory of the member from risks arising from diseases carried by animals, plants, or products thereof, or from the entry, establishment or spread of pests; or

(d) prevents or limits other damages within the territory of the member from the entry, establishment or spread of pests (Swinbank, 1999).

Sanitary and Photo-Sanitary measures include all relevant laws, decrees, regulations, requirements, and procedures including, inter alia, and product criteria; processes and production methods; testing, inspection, certification and approval procedures; quarantine treatments including relevant requirements associated with the transport of animals or plants, or with the materials necessary for their survival during transport; provisions on relevant statistical methods, sampling procedures and methods of risk assessment; and packaging and labeling requirements directly related to food safety (Swinbank, 1999). The SPS measures, thus,
encompass food additives, contaminants, toxins, drug or pesticide residues in food, certificate of food, animal or plant health safety, processing methods, food labeling, plant or animal quarantine, requirements for prevention, control or establishment of pest or disease and sanitary requirements for imports. Whereas the sanitary provisions relate to food and animal health, the phyto-sanitary provisions cover plant health aspects of products (Chawla and Kumar, 1997). The SPS measures can become trade barriers when (a) the domestic standards are lower than that for imports, (b) standard conformity processes differ across countries or (c) the processes of one country are not recognized by the other.

For the purpose of definitions, "animals" includes fish and wild fauna; "plant" includes forests and wild flora; "pests" includes weeds; and "contaminants" include pesticide and veterinary drug residues and extraneous matter.

**Critique of SPS Measures**

Since both the agreements (TBT and SPS) are relatively new and technical, there is a certain amount of confusion and a lack of differentiation between the two measures. One important difference between the two that stands out loud and clear is that while TBT is to be applied on most favoured nation base, SPS agreement does allow discrimination owing to difference in climate, incidence of pests or diseases, etc. in different countries. But then, shelf life regulations can be adopted as a SPS measure or a TBT measure depending on the exact purpose. Therefore, knowing the objective
of a measure is critical to determine whether a measure is subject to the discipline of TBT or SPS agreement. Similarly, the range of measures given in the SPS agreement is not totally inclusive.

Secondly, the differences in standards across countries are very difficult to resolve even with the best scientific advice. The examples of disputes under WTO umbrella in this field include that of beef hormones, irradiated food, cheese made from unpasteurized milk, and genetically modified foods (Hoekman and Anderson, 1999). Though the SPS agreement does not impose international standards on members, it does enhance the importance of international standards setting agencies as it encourages members to base their SPS measures on international standards and that national provision have to be justified on scientific grounds if they are more stringent than international standards. Over time, it tends to impose, a de facto, set of international standards worldwide.

From the developing countries and the Indian prospective, the SPS measures set very high standards which are not suitable for these countries either because they have higher cost of compliance or are not germane to their specific contexts. Further, no lead-time has been given to these countries for implementing these provisions. It is also argued that what was designed in the western contexts.

There is also no doubt that the SPS barriers can lead to import bans which means higher cost of compliance for the
developing country exporters. This, in turn, could lead to reduced trade or division of trade between exporters due to high cost. The developing countries are also likely to find it difficult to implement these standards as there is lack of SPS control systems, lack of awareness and understanding of standards, lack of technical abilities to implement standards, and that organisational structures are not geared for such standard setting (Henson and Loader, 1999).

**Indian Food Industry and the SPS Measures**

Due to the TBT and SPS provision, India may face non-tariff barriers for its products in the future. In 1997, Indian fishery products were banned by EC and were put on automatic detention by the US (Scheuplein, 1999). This is a wake-up call for Indian food industry so far as exports are concerned; more of these restrictions are likely to follow due to the quality and hygiene problems in Indian food products. Under the WTO agreement, India had obligated itself to comply with the SPS provisions by the end of 1997. In the food sector, this includes strengthening of the national food export control system.

The conclusion that we have arrived from the questionnaire is that, at the international level, there is a need to make the WTO system more transparent. The farmers' organizations should be allowed to participate, either through their governments or directly, into the standard setting bodies like the CAC so that farmer concerns could be brought into the body and its rules and
recommendations. At the national level, the Export (Quality Control and Inspection) Act comes under the Ministry of Commerce which may be questioned by other members of the WTO as their food supply systems are regulated by the Ministry of Health. This can be questioned on the basis of the argument whether the statutory authority is sufficiently focused on safety to assure the safety on Indian exports. This needs to be looked into during the WTO negotiations in future. Some of the retrograde policy steps, like the total repeal of the Cold Storage Act of the Central Government in 1997 in the name of liberalization, need to be avoided as this may lead to a sacrifice of the quality concern. The export regulation system should build incentives and penalties for quality maintenance and its violation respectively. What is required is some common control so that a few free riders do not spoil the image of the country as a whole.