CHAPTER-I

INTRODUCTION

The world economy has been changing fast in the post war period and the changes have been very quick in 1990s. The dollar crisis and the rise in oil prices of the 1970s, the problem of debt trap faced by developing countries during the 1980s, the unification of Germany, the collapse of the U.S.S.R. and the end of cold war, the South-East Asian Currency crisis - all these events have a significant impact on the global economy.

Ever since the beginning of the 1980s, the global economy has been passing through a new phase of transition. The most significant transformation, which took place in the world economy has been in the field of trade. The essential feature of this transformation has been the opening-up of their economies by developing countries. Trade liberalization has been the singular objective to be pursued and in fact it is now considered as the panacea for developing countries in distress.

Over the past 50 years ever since the creation of the General Agreement on Tariffs and Trade (GATT) in 1948 trade has been a powerful engine for growth. In 1950 its ratio to global GDP was 7%. Now it represents 23% and a third of the 25 largest trading countries are developing countries. Between 1948 and 1997 merchandise trade increased 14 times while world production increased 5½ times. In the same period world GDP increased by
1.9% per year at constant prices and taking account of overall population growth. Seen in on historical context this figure is extremely high. Over the past 10 to 15 years when developing countries have more and more embraced trade liberalising policies the share of developing countries in world trade overall has increased from 20 to 25%. For the manufactured sector it has doubled from 10 to 20% and on current trends could exceed 50% by the year 2020.

The policy of trade liberalisation was sought to be underlined by multilateral trading system governed by the GATT till December 31, 1994 and now by the World Trade Organisation (WTO) since 1st January 1995. The latter took shape after seven years of Uruguay Round negotiation and formalising of multilateral agreements.

International trade in goods has for the last five decades been conducted on the basis of the framework set out in the GATT. Set up at the end of the Second World War, the GATT was originally proposed to be a precursor to an International Trade Organisation (ITO), which along with the World Bank and the International Monetary Fund (IMF) were to undertake the process of post-war reconstruction of the global economy. These multilateral institutions were mandated to take care of development needs of individual countries in a non-partisan manner and to prevent the re-occurrence of the economic strife between nations, which had characterised the Inter-War period. Thus, in 1947, when the General Agreement was endorsed by the 23 member-states,
uppermost on the agenda was the establishment of the ITO through which problems of Trade and development could be addressed. The Hawana Charted drawn up for the establishment of ITO was brought forth in 1948 but the ITO did not materialise the primary reason being the opposition of the United States to accept a formal structure like the ITO. In the establishment of the WTO by replacing the GATT, the United States saw a decrease in its powers to determine the future of world trade - the role it had set for itself in the post-war phase.

The dominance of GATT and hence the international trading system by the United States in particular and the developed counties in general introduced distortions in the multilateral trading system to such an extent that its very existence was being questioned by the discerning.

The fact that the US in particular and more generally the developed countries were completely dominating the world trading system in the post-war phase was evidenced in the fifties. An early review of the functioning of the GATT trading system carried out at the end of the first decade of its existence endorsed the view that the developing countries were indeed facing an iniquitous system. The Harber Committee that reviewed the GATT system (named after the Chairman of the Group of Experts Gottfried Harberler) submitted its report in 1958 the substance of which was that the predicament of the less-developed countries was due to the trade policies of the developed countries. As a follow-up of the Harberler
Report the GATT instituted several committees to examine the specific areas of contention raised by the Group of Experts.

The review of the GATT system indicated that developed countries were hindering not only traditional exports of the less-developed countries but also exports of manufacturers. Tariffs, quantitative restrictions and internal taxes were among the few type of restrictions that less-developed country's exports encountered in the developed country markets.

Recognition of the problems faced by the developing countries in the GATT - determined trading system came after pressures to reform the institution were brought about from the United Nations System. Developing Countries had raised their problems regarding trade and development at the UN forum in response to which the United Nations Conference on Trade and Development (UNCTAD) was organised in 1964 to review the global trading system.

The multilateral trading system governed by the GATT was status-quo-est, maintaining the overwhelming dominance of the developed countries in the international economy. Hardly, little was done towards decreasing the gap between the rich and the poor nations, fact which was reflected in their relative share in global trade. In fact the GATT remained unchanged in representing the interests of developed countries inspite of the fact that developing countries became larger in number and more articulate in the world forum. The negotiations in each successive round were conducted almost entirely between the developed nations.
themselves - the role of developing nations being reduced only to passively endorsing the regimen, which their richer trading partners had decided to impose on them.

In the background of the structural changes in the world economy the successful conclusion of the Uruguay Round of trade negotiations paved the way for a new era of profound significance for the emerging trading system. The Uruguay Round negotiations formally began in 1986 and it took seven years for its conclusion on the 15th December, 1993 and there upon the Final Act was signed on 15th April, 1994 at Marrakesh. As a result replacing the GATT the World Trade Organisation (WTO) was established on the 1st January, 1995.

The year 1998 is the golden jubilee of the multilateral trading system. The creation of this system surely ranks among the greatest economic achievements of the Post-World-War II era. The success of the system in the last 50 years (1948-98) and in the six years after the creation of the WTO is evident from the fact that the volume of world merchandise exports grew by 9.5 per cent in 1997, the second highest rate recorded in more than two decades. World output grew at 3 percent matching the best performance since 1989. Trade and output growth last year were more evenly spread among regions that in 1996.

Besides it gave substance to a shared dream of a fair and open world trading system. More than that it has led directly to the breaking down of barriers not just between countries but between
peoples. At the hearts of the system are its rules-based structure and the principle of non-discrimination.

Like the GATT, the WTO rests on contractually binding commitments negotiated and undertaken freely by governments and ratified through their domestic legislative processes. It is thus a transparent and profoundly democratic system.

The multilateral trading system continues to grow in scope and credibility. Besides 132 member-nations there is a 'waiting list' of applicants for the membership of the WTO—a feature that makes this organisation unique among the international agencies. In fact the 50th Anniversary of the multilateral trading system reinforces beyond doubt that the ultimate goal of the WTO remains the establishment of a rule-based global system of free trade as the main element of a strategy for global development and security in the 21st century.

These remarkable achievements are sometimes as the victory of free trade. But such an interpretation completely ignores the compromises the WTO has made to exist and grow. The most significant of these compromises is arguably with regionalism. In order to absorb regional groupings a blind eye was turned to members of a regional block offering greater concessions to each other than they were willing to offer other members of the WTO. As a result rather than encouraging completely free trade, the multilateral trading system has contributed to the growth of regionalism. In fact today the WTO itself counts nearly 180 regional
trade agreements. If the compromise with regionalism has been the WTO's greatest sin for the protagonists of free trade, for the developing world it is the ability of the few major countries to decide the course the WTO will take. While the rules may be implemented fairly it is a few players notably the US, Europe and Japan who dominate the process of deciding what the rules will be. These compromises could the claim of the multilateral trading system to being a global protector of free trade. But what it has established is a system of order in world trade, where the rules are known and no country, no matter how big can break them.

The second ministerial meeting of the WTO ended at Geneva on May 20, 1998 (The first such conference after the WTO was established in 1 Jan., 1995 was held in Singapore in December 1996) with the adoption of a declaration that lays the foundation for a worked-programme that will in all likelihood lead next year to a new set of global talks in certain areas. The meeting also concluded with a side agreement on duty free trade in electronic commerce. The negotiated ministerial declaration does not contain any new trade pact. But it is important because it lists the areas in which preparatory work for the future negotiations is to commence at the WTO. These areas include those where countries have faced difficulties in implementing the 1994, Marrakesh Pact where there is already an agreement to begin fresh negotiation at the turn of the century and 'new' subjects like a possible global treaty on foreign investment.
However most of the developing countries are not keen on a fresh set of negotiation as they feel that the Marrakesh Agreement has not given them the benefits that has been promised then and that the developed countries have not been fully honest in their implementation of that agreement. These countries have moved slowly in removing the controls on textiles, while they have been quick to impose-anti dumping duties and erect non-tariff barriers to imports from developing nation. India has taken the initiative in demanding a review of the implementation process.

India has been a part of the multilateral trading system since its inception as the GATT in 1948. She has been a part of all ministerial declaration and agreements that have been signed since inception and was among the founding members of the WTO on January 1, 1995 which has set up a rule based system of multilateral trading world wide. However today the WTO is looked upon by many in India as a compromise deal which reflects the interests of the industrialised countries pulled against developing ones. It is felt that developing countries remain a junior partners in the global arena. Many feel that the negative impact of WTO membership outweighs gain from it. They want India to move out of this world body surprisingly enough several exporters also say similar things regularly.

But such a step would be suicidal. Being a member of the WTO, India gets the most-favoured nation (MFN) status with 132 member countries. To protect its interest India should not get out
of the WTO and lose market access but negotiate better when important issues are debated. Industry, trade commerce and business of the country must be given information about agreements signed by India. It appears that much of our suspicion of the WTO can be traced to the government's policy of shrouding these issues in secrecy. Now the time has come that the developing world also starts asserting for its right at the WTO and lobby and pressurize nations to accept its demand.

The creation of the WTO is in fact a landmark in the history of multilateral trading system and now it has completed more than 6 years period of its existence. This period is too short in the life of a new organisation to evaluate its accomplishments. However the initial years are crucial to its future credibility and effectiveness. On the basis of its working and experiences over since its very inception the WTO has launched work on the so called - 'new issues' which underline its tasks ahead as well as the challenges it faces today. Hence an attempt has been made to cover various aspects of the issues relating to the working and performance of the WTO in historical background of the GATT trade regime.

1.1 GATT (GENERAL AGREEMENT ON TARIFFS AND TRADE)

The General Agreement on Tariffs and Trade (GATT) was an international body, which remained in existence for a period of forty-six years. It was negotiated in 1947 and came into force on January 1, 1948. GATT started as a general agreement for trade concessions among 23 nations including India, and its membership
increases to 117 countries as on December 31, 1994 - the day it ceased to exist. The Geneva-based 117 nation GATT had two thirds of its members belonging to developing nationals.

GATT was neither an organisation nor a court of justice, which could enforce its decisions. It was simply a multinational treaty, subscribed by nations covering 85 percent of the world trade. It provided a forum to discuss trade problems, faced by member-countries, known as contracting parties.

It had been almost half a century since the GATT came into being. During this period GATT established itself as a prominent feature in the international landscape and made its presence felt in the world of trade and commerce. Through successive rounds of negotiations the barriers obstructing the free flow of trade were slowly and steadily lowered. A whole corpus of jurisprudence on Trade matters evolved under the aegis of GATT.

The Uruguay Round Agreement signed in Marrakesh to establish the World Trade Organisation (WTO) ensures change within continuity: continuity in the sense that the philosophy, culture and specificity of GATT will not evaporate or vanish, but instead will enrich the new spirit of the WTO, and change because the deep transformation experienced by our world in terms of technological breakthroughs, globalisation and liberalisation necessitated this change.

Today we have a vibrant institution, which is poised to play an increasingly important role in the international arena. This is to
a great extent, due to the strong foundation of GATT, upon which the WTO has been designed and built. So in a sense, GATT will never disappear. It will live on in the shape of the WTO and take pride in the achievements of its offspring just as a mother reveals in the success of her children.

Keeping in view the aforesaid facts, an attempt is made to trace a brief historical development of events ever since the birth of GATT till the conclusion of the Uruguay Round in Marrakesh on the 15th December, 1993 which led to the creation of the WTO on January 1, 1995.

1.1.1 ORIGIN OF GATT

General Agreement on Tariffs and Trade (GATT) was essentially a trade agreement among 120 odd nations, which constituted contracting parties to the GATT and India was also one of them. It was one of the institutions, which took concrete form out of the deliberations of the Bretton Woods Conference, held in July 1944. The Bretton Woods Agreement was directed towards increased international co-operation in money finance and trade. As such three separate institutions were established, namely (i) IMF (ii) IBRD and (iii) GATT.

GATT was a post-war development, which was created out of the efforts made by the Allied Powers during the World War II to create new international institutions that would help promote more liberal system of international trade and payments.
The Great Depression of the thirties had promoted the governments of many countries to erect various kinds of protective trade barriers, high tariff protection, quota restrictions on imports, exchange controls and the like. These restrictive trade practices had severely hampered the growth of international trade in the 1930s. IMF was designed to provide a multilateral payments system and to help member countries in overcoming short-term balance of payments deficits without recourse to import restrictions. Side by side with the IMF, plans were also put forward for the negotiations of a world trade charter incorporating an international commercial code.

It was in November 1945 that the U.S. Deptt. of State published its proposals for expansion of world trade and employment. These proposals set out general principles of a multilateral trading code, together with suggestions for setting up of an International Trade Organizations (ITO). A conference was invited in London in 1946 to consider these proposals. In March 1946, the Economic and Social Council of the United Nations took over the work of preparing the charter for proposed International Trade Organisation. The council appointed a preparatory committee to draft the charter for ITO. While the ITO charter was in the stage of preparation, the Governments forming the preparatory committee reached an agreement to sponsor negotiations aimed at lowering customs tariffs and reducing other trade restrictions, without awaiting for ITO to come into existence. Consequently the first tariff negotiating conference was held at Geneva in 1947 at a
time when the charter of the proposed ITO was being prepared. But the fact is that the proposed ITO was never born because there was a head-on-collision between those who wedded to the idea of a free, multilateral trading system on the one hand and those who placed the whole emphasis on a national basis. As a result of which the charter of the proposed ITO failed to secure sufficient support in the United Nations for its ratification.

While the proposals for setting up of the ITO had met with failure, the tariff concessions resulting from the tariff negotiating conference were embodied in a multilateral contract called the General Agreement on Tariffs and Trade (GATT). The contract was signed on October 30, 1947 at Geneva and became effective from January 1, 1948. One of its most important effects was to bring about a substantial reduction in the U.S. tariff, which had risen to high levels in the 1930s. Consequently the GATT became our instrument that helped bring about the economic recovery of Western Europe.

GATT which had originally been intended as a purely temporary arrangement had become a permanent international arrangement body till ceased to exist on 31 December, 1994 whose rules had been accepted by most of the leading trading countries.

**FUNDAMENTAL PRINCIPLES OF GATT**

GATT was a treaty that was collectively administered by the contracting parties. Representatives of the contracting parties used to meet from time to time to discuss matters of common interest
and to give effect to the provisions of the Agreement requiring joint action.

The text of the GATT Agreement was complicated but the following were regarded as its four fundamental principles:-

1. Trade should be carried on the non-discriminatory basis.
2. Domestic industry should only be protected by means of customs tariffs and not through other commercial measures.
3. The aims of consultations should be the avoidance of damage to members interests.
4. GATT served as a framework within which negotiations could be held to reduce tariffs and other trade barriers.

**OBJECTIVES OF THE GATT**

The objectives of the GATT were based on a few fundamental principles contained in the code of international Trade conduct:

1. To follow unconditional most favoured nation (MFN) principle.
2. To carry on trade on the principle of non-discrimination, reciprocity and transparency.
3. To grant protection to domestic industry through tariffs only.
4. To liberalise tariff and non-tariff measures through multilateral negotiations.

To achieve these objectives, the Agreement provided for:

(a) Multilateral trade negotiations
(b) Consultation and settlement of disputes
(c) Waivers to be granted in exceptional cases.
The ultimate aim of establishing such a liberal world trading system was to raise living standard, ensure full employment through a steadily growing effective demand and real income, develop fully the resources of the world and expand the production and exchange of goods on a global level.

**GATT ROUNDS (CONFERENCE) OF GLOBAL TRADE NEGOTIATIONS**

Since its formation in 1947, eight rounds (conferences) of global trade negotiations were held under the auspices of the GATT.

**First Round**

The first round was held at Geneva (Switzerland) in 1947. The 23 countries that founded that GATT exchanged tariff cuts for 45000 products worth $10 billion of trade on an annual basis.

**Second Round**

The second round was held at Annecy (France) in 1949. Another 10 countries joined and custom duties were reduced for another 5000 items of goods.

**Third Round**

The third round was held at Torqway (Britain) in 1950-51. The 38 countries involved adopted 8700 tariff reduction.

**Fourth Round**

The fourth round was held at Geneva (Switzerland) in 1955-56. The 26 countries participating in it decided to further cut duties for goods worth $2.5 billion.
**Fifth Round**

The fifth round also known as the Dillon Round was held at Geneva (Switzerland) in 1960-62. Participants negotiated the new common external tariff of the European community set up in 1958 and custom duties for 4000 items worth 5 billion dollars.

**Sixth Round**

The sixth round also known as the Kennedy Round was held at Geneva in 1964-67. More than 50 countries, according for 75 percent of world trade, cut tariffs for industrial goods worth $ 40 billion by upto 50 percent. They also signed agreements on grains and chemical product and a code on antidumping actions.

**Seventh Round**

The seventh round known as the Tokyo Round opened in 1973 in Tokyo and ended in 1979 in Geneva. The 99 participants cut customs duties by 20 to 30 per cent for goods worth a traded value of $ 300 billion. They negotiated an improved trading framework made up of codes covering subsidies, technical carriers to trade, public procurement, customs valuation rates and other issues.

Ever since the creation of the GATT till the conclusion of the Tokyo Round seven rounds of global trade negotiation were held under the auspices of the GATT. These conferences led to reduction or stabilisation of more than 60000 tariff rates and to a number of non-tariff agreements among contracting parties, having 80 percent
of the world trade. Let us now discuss briefly the Kennedy, the Tokyo and the Uruguay Rounds of Global trade negotiation which took place under the auspices of the GATT.

The Kennedy Round

Since the formation of GATT five tariff reduction conferences had been held under the auspices of the GATT. They had been conducted bilaterally on commodity by commodity basis. This was a cumbersome procedure and the progress had been slow. The United States had been put at a disadvantage in its trade relations with the formation of the EEC. As a reaction to this, the US congress passed the Trade Expansion Act in October 1962 which authorised the Kennedy administration to make a 50 per cent tariff reduction on all commodities. This paved the way for the opening of the Kennedy Round of trade negotiation at Geneva in May 1964 which were to be completed by 30 June 1967. The result of negotiations were incorporated in the schedules of the Geneva Protocol to the General Agreement on Trade (1967).

The Tokyo Round

The Seventh Round of Multilateral Trade Negotiations (NTN) was launched in September 1973 under the auspices of GATT. Its objectives were laid down in the Tokyo declaration. The declaration set out of far reaching programme for the negotiations in six areas, tariff reductions, reduction or elimination of non-tariff barriers, coordinated reduction of all trade barriers in selected sectors, discussion on the multilateral safeguard system trade liberalisation
in the agricultural sector taking into account the special characteristics and problems in this sector and special treatment of topical products. The Tokyo declaration also emphasised that the MTN must take into account the special characteristics and problems in this sector and special treatment of topical products. The Tokyo declaration also emphasised that the MTN must take into account the special interests and problems of developing countries.

At the end of the Tokyo Round on 12th April, 1979, a number of agreements on specific non-tariff measures and so on agricultural products were reached which came into force from 1st January, 1980.

1. The Agreement on Subsidies and countervailing Duties: It covered industrial, agricultural fisheries and forestry products and procedure for the settlement of disputes between contracting parties.

2. The Agreement on Customs Valuation: It provided for a fair, uniform and natural system for the valuation of goods for customs purposes.

3. The Agreement on Government Procurement: It aimed at securing a greater international competition and thus more effective use of tax revenues and other public funds through the application of commercial considerations when government purchase for their own use. It laid down principles of non-discrimination and national treatment.
4. The Agreement on Technical Barriers to Trade: It provided for removing unnecessary barriers to trade existing in the form of technical standards and specifying rules of a legally, binding character between governments to complain and obtain redress in the course of violation of the Code of Technical Standards by the signatories.

5. The Agreement on Import Licensing Procedures: It is related to automatic grant of approval of application on the inflow of goods, non-automatic import licensing in the case of quotas and other types of import restrictions and institutions and procedures for consultation and settlement of disputes.

6. The Agreement on Dairy Products: It was initially for three years beginning 1 January 1980 with provision for further three years extension. It provided for the setting up of International Dairy Products Council, which was expected to meet twice a year. This agreement related to the provision for dairy products as food aid to developing countries and three protocols regarding skimmed, whole and butter milk powders, anhydrous milk fat and cheese.

7. The Agreement on Boving Meat: It covered Beef, veal and live cattle. It was also for three years commencing 1 January 1980 with provision for further three year extensions. It provided for the establishment of International Meat Council which would meet twice a year.
8. The Agreement on Trade in Civil Aircraft: It include all civil aircraft, their engines, parts and components and all ground flight simulation and their parts and components. It provided for elimination of all custom duties and similar changes on the importation of above mentioned items and repairs on civil aircrafts. It established a committee on Trade in Civil Aircraft which was to meet once a year.

The Tokyo Round had extended its scope to non-tariff matters. But the legal position in each of these Agreement was specifically devised to meet the objectives set by the US, EEC and other developed countries. Special provision were however incorporated in some of them for those developing countries which wished to subscribe to them.

**Eight Round**

The Eight Round of GATT negotiations, which began in Uruguay in September 1986 was concluded on December 15, 1993. Delegation from 117 countries approved by consensus a GATT world trade treaty aimed at opening up international markets and spurring global economic growth into the 21st Century.

Originally there were the following 15 areas relating to liberalisation of trade in goods in the Uruguay Round:-

i) Tariffs
ii) Non tariff barriers
iii) Tropical products
iv) Natural resource-based products
v) Textile and Clothing
vi) Agriculture
vii) GATT articles
viii) Safeguard
ix) Multilateral trade agreements and arrangement
x) Subsidies and countervailing measures.
xii) Disputes settlement
xii) Trade related intellectual property rights (TRIPS)
xiii) Trade related investment measures (TRIMS)
xiv) Functioning of GATT system
xv) General agreement on trade in services (GATS)

After the talks broke down in December 1990, the trade negotiations committee of the GATT while deciding to restart the negotiations in February 1991 reshuffled the original 15 areas into seven new areas in order to focus the discussion better.

There were:
i) Agriculture
ii) Textile and Clothing
iii) GATS
iv) Rule-making
v) Trims and Trips
vi) Dispute settlement
vii) Market access

The Uruguay Round of Multilateral Trade Negotiations were over on 15.12.93. Then the final Act was signed by 125 countries on April 15, 1994 at Marrakesh (Morocco) India was a signatory.

Popularly known as the Dunkel Agreement or Dunkel Award this is the General Agreement on Tariffs and Trade (GATT), 1994,
finally the emerge as the WTO in 1995.

Indeed the Uruguay Round concluded on December 15, 1993 marks the end of the largest debate in the history of the Globe. Arthur Dunkel the erstwhile Director Council of GATT declared that the time had come for GATT 1947 to be replaced by a new World Trade Organization, securing for all times fair norms and forums for Multilateral Trade and Commerce among the Nations of the World.

The GATT document presented as the "Final Act Embodying the Results of the Uruguay Round of Negotiations" is now formally signed by India as a Member who was signatory at Uruguay and Marrakesh.

1.1.2 DOWNFALL OF GATT

Before the Kennedy Round (1964-67) developing countries gained very little from the GATT except that they could use quantitative restrictions to correct disequilibrium in balance of payment and benefited from tariff reduction by developed counties. But the principle of reciprocity for trade concessions went against the developing countries because they were unable to provide equivalent benefits to the developed countries. For instance tariffs total manufactured imports by developed countries averaged 11 per cent but were 17 percent on those from developing countries. Moreover GATT did not take any initiative on trade barriers on agricultural and tropical products of developing countries.
The concept of "special and preferential" treatment for developing countries was formally introduced into the General Agreement in 1957. Under it negotiations would take in account the needs of LDCs for a more flexible use of tariff protection to assist their economic development and the special needs of these countries to maintain, tariffs for revenue purposes. On the recommendations of the Haberler Report. The GATT started an action programme in 1958 which recommended that the developed countries should reduce taxation and trade barriers on industrial and primary products of developing countries.

In 1963 the contracting parties agreed on a more flexible attitude towards LDCs. Accordingly tariffs on some tropical products like tea and timber were reduced or eliminated by developed countries.

In 1965 a new Part IV on Trade and Development was incorporated into the General Agreement dealing with the principle of non-reciprocity for developing countries. It states that "the developed contracting parties do not expect reciprocity or commitments made by them in trade negotiations to reduce or remove tariffs and other barriers to the trade of less developed contracting parties. It further adds that "the less developed contracting parties should not be expected in the course of trade negotiations to make contributions which are inconsistent with their individual development, financial and trade needs, taking into consideration past trade developments."
The Kennedy Round (1964-67) bestowed some benefits on developing countries when thirty-seven developed countries reduced tariffs on manufactured goods. But little attention was paid to the problems of developing countries.

In 1970 the Generalised System of Preferences (GSP) was introduced which permitted developed countries to grant unilateral tariff preferences to developing counties. In June 1971 the GATT waived the MFN treatment obligation for developed countries for a period of ten years to the extent needed to grant preferential treatment under the GSP which has since been extended further.

Moreover GATT rules also banned export subsidies on manufactured products by developed countries. On the other hand they allowed export subsidies for economic development and industrialization by developing countries.

However trade in textiles and clothing had been subjected to special restriction for nearly four decades by developed countries outside the GATT rules. Developing countries being the principal exporters of these goods had been at a disadvantage in this respect.

Despite special and preferential treatment for developing countries provided in GATT rules they were being discriminated under the 'escape clauses' and 'safeguards' rules of the GATT. Moreover the multiplication of trade restrictions outside the GATT rules, such as voluntary export restraints and orderly marketing agreements went against the interest of developing countries and undermined the utility of the General Agreement.
GATT initially started with 23 signatories and bulged over 124 contracting parties though such bulging could not save it. The GATT provided an access to the new GATT, i.e. WTO. The CORE REASONS behind its failure can be traced as such:

1. The international trading system fell in a state of disorder as the selective trade restrictions of a discriminatory character grew and international trade rules increasingly disregarded. Despite annual statements of industrial countries heads of the State at their summits, protectionism increased and GATT failed to restore faith in the world trading system.

2. In the North-South context the traditional tensions related to the demand of developing countries for improved access for their exports to the markets of industrialised countries. Textiles and clothing are classical examples in this area. These tensions increased as developed countries led by the US, made of demand for better access to Southern markets in the most dynamic sector of trade in services. The situation became more complex because solutions to all these problems sought outside GATT. So that international trade increasingly took place outside of the rules of GATT. All these developments led to a growing feeling that GATT is no longer relevant to the realities of today's international economic situation.

3. The principles of non-discrimination and most favoured nation (MFN) in treating all trading members equally
disregarded. Instead bilateral and discriminatory solutions to sectional trade issues prevailed in practice resulting in a deterioration of the GATT multilateral system. The increasing number of regional preferential agreements and free trade areas equally functioned against the spirit of GATT.

4. There were two groups of counties. One 'free-reders' which kept themselves at a convenient distance during the trade negotiation but enjoyed all the benefits under MFN. Second group known as 'foot-dragger countries' so influential that without their consent no agreement was possible. The obvious result was the declination of the credibility of GATT.

5. A disregard of the application of GATT principles to the practice of international trade was due to the fact that during the Tokyo Round various codes were adopted to enable a conditional application of the principle of MFN treatment. These new arrangements facilitated trade agreements which restricted the benefits to these trading partners which had also accepted the obligations of a specific agreement. The result manifested in a number of codes benefiting only the signatories of such agreements. Preferential and free trade agreements functioned under the same principles, except that there was a difference in scope and product coverage and that new membership was generally not open to others.

6. Another factor which explains continued dissatisfaction with GATT was the state of unresolved problems in the North-
South Context. The selective discrimination by developed countries against Third world exports and their failure regarding commitments undertaken within the GATT framework caused the developing countries frustration. The GATT work programme provided a basis for the ministerial meeting of 1982 leading to the agenda of the Uruguay Round sub sustained this point. Another example of bias in the functioning of GATT was much tariff a liberalisation in those product areas which were of greatest interest to developing countries. The developed counties for their part were not happy with developing counties attitudes and behaviour towards GATT, especially the unwillingness of newly Industrialising countries (NICs) to make concessions during negotiations.

7. Similarly GATT could not solve the issues on trade in service, trade-related investment measures and trade-related aspects of intellectual property rights, which necessitated a paradigm shift in international trade through Uruguay Round.

WTO succeeded GATT from January 1, 1995 with a hope not to repeat the defects and weaknesses of old GATT. The success of WTO depends upon the uniformity between member countries to response it and effectuation of metamorphosis process to mould national laws and behaviours in consonance with the regime upon trade and commerce is enough to snack its success. It can hopefully be assumed due to the altered legal status of WTO.
Formally the GATT was not an international organisation (i.e. a legal entity in its own right) but an inter-government treaty. As a result instead of member states, GATT had ‘Contracting parties’. The agreement reached at the end of the Uruguay Round (April 1994) to establish the WTO changed matters. The WTO in an international organisation that administers multilateral agreements pertaining to trade in goods (GATT) trade in services (GATS) and trade related aspects of intellectual property rights (TRIPs).

The various treaties overseen by the WTO are between nation-states and customs territories and deal with government places. The WTO is essentially not concerned with the behaviour of private businesses. It deals only with the actions of governments establishing disciplines on trade policy instruments such as tariffs, quotas, subsidies or state trading. Thus the WTO is a regulator of the regulatory actions of governments that affect trade and the conditions of competition facing imported products on domestic markets. In this respect it is no more different from old GATT i.e. GATT 1947.

Though great deal of debate and discussion is widespread all over the world particularly in developing countries. In Indian the debate is more pertinent, unfortunately after signing at Marrakesh. Mali D.D. has succinctly evaluated the Indian Picture. He states that there has been a great deal of debate and discussion on the Dunke proposals. Interestingly the intensity of debates and discussions have increased after the Final Act was accepted and
signed and not at the stage when the draft proposals were circulated to government for examination and acceptance.

In India two warring camps with an unflinching beliefs are reacting on Uruguay Round, Marrakesh Agreement 1994. One camp assess the Agreement positively while another camp labels it as suicidal knot and economic hara-kiri. But undesirably it is a Hobson's choice to India as well as other developing countries including Nepal.

In a two days national conference on intellectual property regime held in News Delhi jointly organised by Department of Scientific and Industrial Research (DSIR) and Federation of Indian Champers of Commerce and Industry (FICCI), extensively evaluated GATT/WTO regime and impact of strong protection of intellectual property in India. According to Dr. Rao, Subba, V.V., adviser of DSIR a strong intellectual property protection could encourage investment in R&D, protects, investors and facilitates a greater inflow into R&D. This is really a circular course of events because a good patent would mean strong marketing of a product, healthy profits and then a reinvestment into research, which would again rise to another patent. That is why the need for a strong intellectual property protection has become the need of the how in India. Likely, Mashelkar, R.A. says we have really been the prisoners of our own thinking and as a result of that we have really not ventured. The net result is that we have not been able to create major invention and major innovations.
1.2 ORIGIN OF WTO (WORLD TRADE ORGANISATION)

With the Signing of General Agreement on Tariffs and Trade (GATT) in 1947 as an initial step towards an International Trading Organization (ITO) was believed that an international institution could greatly contribute the cause of free trade in global terms and help to resist protectionist attempts by national governments. But the subsequent empirical evidence showed that the system functioned well in favour of the developed countries, overlooking the Third World, which fell into debt crisis, depending heavily upon international trade, which forced to make substantial economic adjustments. At international level macro-economic imbalances grew as reflected in continuous tensions in trade relation between the US, EU and Japan despite the amicable objectives of GATT. International trade rules grossly disregarded and international trading system dragged into complete trade restriction of a discriminatory character and protection. That is why GATT failed completely to restore forth in world trading system in spite of the eighth rounds of multilateral trade negotiations. Uruguay Round was not hopefully advantageous to South but North was so pertinent upon its class. That is why Uruguay Round ultimately consummated.

All these negotiations could not occur without the existence of some contributing factors, that eventually led to the establishment of WTO. Such factors are as follows:

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(a) **Interim Nature of GATT**

All the negotiations are the process as an aftermath of world war II, which ultimately culminated in Uruguay Round. The need for global trade norms of conduct between states, out of political, military and economic might was seriously felt. Which could be satiated only through an international institution that could formulate and watch trade rules in a global scale. At the time of Bretton Woods Conference 1944 along with the World Bank (WB) and international Monetary Fund (IMF), GATT had to emerge to liberalise trade but it could not take place at that moment. Another attempt made in Havana in 1948 for setting up the ITO with a belief that uncontrolled and arbitrary protectionism is the cause for economic chaos and the ITO could play role to control all such causes liberalising trade through multilateral framework. But the Hawana charter did not lead to the establishment of ITO because the US Congress refused to ratify the charter. Thus in 1947 when the General Agreement on Tariff and Trade signed it continued to be adhoc multilateral forum for discussions of trade policy. So further discussions and transformation of GATT into a permanent institution was inherently accepted since it very beginning.

(b) **End of Political Polarisation**

Political compulsions necessarily reflected on economic relations. With the open economy countries believing in leaving commerce largely to private enterprise and the planned economy countries believing in utmost state control over economy, the GATT
and the COMECON had existed as two separate trading systems, independent of each other.

The conflict between open door economy and closed door economy of socialist countries remained unresolved till the collapse of close door economy in the decade of 1990. Although Yugoslavia in 1966 and Poland in 1967 had already become the first socialist block countries to accede to the General Agreement under Article XXXIII. Romania and Hungary entered into GATT respectively in 1971 and 1973. After the disintegration of former USSR the closed door economy shifted its paradigm into open door economy. Which ultimately resulted in strengthenment of GATT and proved its permanent institutional set up.

(c) **UNCTAD and NIED**

Although the GATT had promised market led growth to those countries willing to reduce trade restrictions, developing countries found that their export earnings were declining. Developing countries lodged demands for differential treatment under the GATT that would reflect their lesser economic capacity. Even though GATT investigation substantiated many of the developing countries clauses and called for their increased access to industrial countries markets, the GATT delayed acting on these findings.

At the sixteenth session of UN General Assembly 1961 developing countries achieved the unanimous adoption of the resolution entitled "International Trade as the Primary Instrument for Economic Development" which was the basis upon which
ECOSOC adopted a decision to convene a United Nations Conference on Trade and Development (UNCTAD). As repository of the voice of developing countries in the first Secretary General of UNCTAD Raul Prebisch who in UNCTAD-I in Geneva in 1964, acknowledged in his report entitled 'Toward a New Trade Policy for Development' but the principle of non-discriminatory free trade was improper for the developing countries. In fact even as early as 1960 the concept of 'one-way free trade' was accepted by some scholars but it was rejected by the industrial countries as contradictory to the world economic order prevailing in those days.

Though UNCTAD served as a forum in which developing countries could fully express their grievances regarding the prevailing international economic structure. Moreover developing countries employed their numerical advantage to establish principles and programs intended to transform that structure into what they perceived as a more equitable world order. Having entered a period of relative economic vulnerability. ICs began to respond more substantially to DC's demand. In 1965, the GATT contracting parties added the Agreement. a 'Part IV' entitled 'Trade and Development' Although Part IV endorsed differential treatment to DCs more forcefully than did Article XVIII it stopped short of legally binding the contracting parties to accomplish its directives. Nevertheless the addition reaffirmed the DC's status as a numerical majority block that could gain legal reform in the GATT and UNCTAD.
In 1971, the GATT adapted a General System of Preferences (GSP) which allowed ICs to waive their right to reciprocity from DCs and extend concessions unilaterally. Emboldened the South intensified its pressure for change in North-South international economic relations. In 1974, the United Nations General Assembly announced the establishment of a New International Economic Order (NIEO). The General Assembly also created a Charter of Economic Rights and Duties of States, which sought to establish generally accepted norms to govern international economic relations on just and equitable basis. From 1974 to 1976 DCs continued to work for reforms in market access and stability that they believed would encourage their active, full and equal participation in the international economic order.

(d) **Shifting Pattern in Trading System**

Once US which initiated the formation of EU but after 1960 these two camps became trade rivals, especially in the field of agricultural subsidies, each side of this trans Atlantic rivalry tried to undercut the agricultural export prices of the other. In place of tariff barriers which had been substantially lowered through the operation of the GATT. There now appeared non-tariff barriers (NTB) eg. phyto-sanitary restrictions used by the US and the EU against each other to restrict trade. Similarly Japan and newly industrialized economies (NIE) also started posing a major threat to the unchallenged supremacy of the US and EU as the world's foremost economic powers, and the spirit of protectionism against
these new challenges, began to grow on both sides of the Atlantic. In the 1940s, 1950s and 1960s it was the USA and Britain who had championed the cause of trade without barriers and set up the GATT. In those decades their commerce had everything to gain if foreign markets could be opened to their exports and little to lose, it appeared if their own markets were opened to foreigners in return. As the latter were hardly competitive but with the growing challenges posed by countries from across the Pacific, the western powers lacked the confidence to champion the cause of liberal trade, their governments lost the will to block demands for protectionism and disguised forms of trade barriers, outside the discipline of the GATT were used to tackle the trans pacific and challenges. This was the era of acrimonious trade wars with Voluntary Exports Restrains (VERs) and Orderly Marketing Arrangements (OMA) being used against Japan, the NIEs and some developing counties to block their exports to the west such rivalry could be solved only through a permanent multilateral mechanism, so, GATT as an embryo had ultimately to provide place for Uruguay Round and WTO.

(e) Growing Trade Importance of Developing Countries

It was primarily the developed countries who profited from liberal international trade through the third world increasingly began benefiting from GATT. Today eight developing countries including so-called Newly Industrialized Nations are among the 25 largest trading nations in the world. Similarly the developing
countries were in the process of recovering of their share in world trade. Their share of world trade in 1950 was 35%, while the developed countries share was 65%, but the ratio had declined during the decade of 1970. In 1970 the developing countries had a mere 20% share. In 1985 the share of developing slowly increased upto 20.5% yet the symptom was optimistic. In the changing balance of world trade the share of developing economies in the value of world merchandise exports (excluding fuels) increased from 16-20% between 1982 and 1992 by a sharp rise in exports of manufacturers. This was the result of both the dynamic growth in exports from established developing economy exporters of manufacturers and the emergence of new exporters of manufacturers. Of the ten developing economies in the list of the top 25 exporters of manufacturers in 1992, four were not on the list for 1982.

GATT initially started with 23 signatories and bulged over 124 contracting parties though such bulging could not save it. The GATT provided our access to the new GATT i.e. WTO.

The World Trade Organization (WTO) came into effect on January 1, 1995 with the support of at least 85 founding members including India. It is now the economic pillar of worldwide dimensions along with the International Monetary Fund (IMF) and the World Bank.

The WTO replaced the General Agreement on Tariffs and Trade (GATT) one of the institution namely IMF, IBRD and GATT.
which took concrete forms out of deliberations of the Bretton Woods Conference held in July 1994. It was established by the Agreement signed by 125 participants nations on April 15, 1994 at Marrakesh (Morocco). This Agreement is called Agreement Establishing the World Trade Organization. As many as 77 of the 125 countries which signed the Uruguay Round Trade accord of the GATT became members of the WTO including India. Now its membership has increased to 132 with the accession of Panama.

The WTO has taken charge of administering the new global trade rules, agreed in the Uruguay Round, which took effect on the first day of January 1995. These rules-achieved after seven years of negotiations among 125 countries-establish the rule of law in international trade. Through the US to agreements and market access commitments world income is expected to rise by over $500 billion annually by the year 2005 A.D. and annual global trade growth will be as much as quarter higher by the same year than it would otherwise have been.

**WTO VIS A VIS GATT**

The WTO is distinctively as well as qualitatively an improvement upon the GATT. It is different from the GATT in the following respects:

1. The WTO is more global in its membership than the GATT. Its prospective membership is already around 180 countries and territories with many others considering accession.
2. It has a far greater scope than its predecessor, bringing into the multilateral trading system, for the first time trade in service, intellectual property protection and investment.

3. It is a full-fledged international organisation in its own right while GATT was basically a provisional treaty serviced by an ad hoc secretariat.

4. It administers a unified package of agreements to which all members are committed. In contrast the GATT framework includes many important side agreements (for example anti-dumping measures and subsidies) whose membership is limited to a few countries.

5. It contains a much improved version of the original GATT rules plus a lot more. The new version called GATT 1994, clarifies and strengthens the original GATT rules for trade in goods.

6. It reverses policies of protection in certain 'sensitive' areas which were more or less tolerated in the old GATT. Under various agreements export restraints on textiles and clothing will be dismantled, trade in agriculture reformed and gray-area trade measures so called voluntary export restraints phased out.

The World Trade Organisation (WTO) deals with the rules of trade between nations at a global or near-global level. But there is more to it than that:
**WTO is a Bird, Or A Plane**

There are a number of ways of looking at the WTO. It's an organization for liberalizing trade. It is a forum for governments to negotiate trade agreements. It is a place for them to settle trade disputes. It operates a system of trade rules (But it's not Superman just in case anyone thought it could solve - or cause - all the world's problems)

**Above All WTO is a Negotiating Forum**

Essentially the WTO is a place where member governments go, to try to sort out the trade problems they face with each other. The first step is to talk. The WTO was born out of negotiations and everything the WTO does is the result of negotiations. The bulk of the WTO's current work comes from the 1986-94 negotiations called the Uruguay Round and earlier negotiations under the General Agreement on Tariffs and Trade (GATT). The WTO is currently the host to new negotiations under the Doha Development Agenda' launched in 2001.

Where countries have faced trade barriers and wanted them lowered, the negotiations have helped to liberalize trade. But the WTO is not just about liberalizing trade and in some circumstances its rules support maintaining trade barriers - for example to protect consumers or prevent the spread of disease.
**WTO is a Set of Rules**

At its heart are the WTO agreements, negotiated and signed by the bulk of the world's trading nations. These documents provide the legal ground-rule for international commerce. They are essentially contracts, binding governments to keep their trade policies within agreed limits. Although negotiated and signed by governments the goal is to help producers of goods and services, exporters and importers conduct their business while allowing governments social and environmental objectives.

The system's overriding purpose is to help trade flow as freely as possible so long as there are no undesirable side effects. That partly means removing obstacles. It also means ensuring that individuals companies and governments know what the trade rules are around the world and giving them the confidence that there will be no sudden change of policy. In other words, the rules have to be transparent and predictable.

**WTO Helps to Settle Disputes**

This is a third important side to the WTO's work. Trade relations often involve conflicting interests. Agreements including those painstakingly negotiated in the WTO system, often need interpreting. The most harmonious way to settle these differences is through some neutral procedure based on an agreed legal foundation. That is the purpose behind the dispute settlement process written into the WTO agreements.
**WTO Born in 1995 but not so Young**

The WTO began life on 1 January 1995 but its trading system is half a century older since 1948 the General Agreement on Tariffs and Trade (GATT) had provided the rules for the system. (The second WTO ministerial meeting, held in Geneva in May 1998, included a celebration of the 50th Anniversary of the system).

It did not take long for the General Agreement to give birth to an unofficial defacto international organization also known informally as GATT. Over the years GATT evolved through several rounds of negotiations.

The last and largest GATT round was the Uruguay Round, which lasted from 1986 to 1994 and led to the WTO's creation. Whereas GATT had mainly dealt with trade in goods, the WTO and its agreements now cover trade in services and in traded inventions creations and designs. (intellectual property).

The WTO rules - the agreements - are the result of negotiations between the members. The current set were the outcome of the 1986-94 Uruguay Round negotiations, which included a major version of the original General Agreement on Tariffs and Trade (GATT).

GATT is now the WTO's principal rulebook for trade in goods. The Uruguay Round also created new rules for dealing with trade in services, relevant aspects of intellectual property, dispute settlement and trade policy reviews. The complete set runs to some 30000 pages consisting of about 60 agreements and separate
commitments (called schedules) made by individual members in specific areas such as lower customs duty rates and services market-opening.

Through these agreements, WTO members operate a non-discriminatory trading system that spells out their rights and their obligations. Each country receives guarantees that its exports will be treated fairly and consistently in other countries' markets. Each promises to do the same for imports into its own market. The system also gives developing countries some flexibility in implementing their commitments. Following are the agreements in WTO:

(a) Goods

It all began with trade in goods from 1947 to 1994. GATT was the forum for negotiating lower custom duty rates and other trade barriers the text of the General Agreement spelt out important rules, particularly non-discrimination.

Since 1995, the updated GATT has become the WTO's umbrella agreement for trade in goods. It has annexes dealing with specific sectors such as agriculture and textiles and with specific issues such as state trading product standards, subsidies and actions taken against dumping.

(b) Services

Banks, insurance firms, telecommunication companies, tour operators, hotel chains and transport companies looking to do
business abroad can now enjoy the same principles of freer and fairer trade that originally only applied to trade in goods.

These principles appear in the new General Agreement on Trade in Services (GATS). WTO members have also made individual commitments under GATS stating which of their services sectors they are willing to open to foreign completion and how open those markets are.

(c) Intellectual Property

The WTO's intellectual property agreement amounts to rules for trade and investment in ideas and creativity. The rules state how copyrights, patents, trademarks, geographical names used to identify products, industrial designs, integrated circuits layout designs and undisclosed information such as trade secrets - "intellectual property" should be protected when trade is involved.

Dispute Settlement in WTO

The WTO's procedure for resolving trade quarrels under the Dispute Settlement Understanding is vital for enforcing the rules and therefore for ensuring that trade flows smoothly. Countries bring disputes to the WTO if they think their rights under the agreements are being infringed. Judgments by specially appointed independent experts are based on interpretations of the agreements and individual country's commitments. The system encourages countries to settle their differences through consultation. Failing that they can follow a carefully mapped out, stage by stage procedure that includes the possibility of a ruling by a panel of
experts and the chance to appeal the ruling on legal grounds. Confidence in the system is borne out by the number of cases brought to WTO-around 300 cases in eight years compared to the 300 disputes dealt with during the entire life of GATT.

**POLICY REVIEW**

The Trade Policy Review Mechanism's purpose is to improve transparency, to create a greater understanding of the policies that countries are adopting and to assess their impact. Many members also see the reviews as constructive feedback on their policies.

All WTO members must undergo periodic security each review containing reports by the country concerned and the WTO Secretariat.

**1.3 MEMBERSHIP AND STRUCTURE OF WTO**

There are two types of Membership in WTO the first, original membership and the next non-original membership. A state, EU and separate custom territories are eligible to become member of WTO. The contracting parties to the GATT 1947 as the date of 1st January 1995 and the European Union are the Original Members of WTO. Any state or separate customs territory possessing full autonomy in the conduct of its external commercial relations and of the other matters produced in the Agreement may accede to the Agreement on terms to be agreed between it and the WTO. Such members are non-original members. Though decisions on accession shall be taken by the Ministerial Conference. The Ministerial Conference shall approve the agreement on the terms of accession
by a two-thirds majority of the members of the WTO. If any state or custom territories mesh to become a non-original member they have to make an accession within two years time period from the date of entry into force to of the Agreement i.e. 1st January 1995 unless the ministerial conference decides otherwise. In January 1st, 1995 84 countries were members 9 countries were participants who had accepted the WTO and whose schedules were being verified 38 countries were participants in the process of domestics ratification. The membership in WTO till October 1997 has reached to 132.

The Agreement does not apply between those members if either of the members at the time either become a member and does not consent to such application. It may be invoked between original members of the WTO who were contracting parties to the GATT-1947, only where Article XXXV of that Agreement had invoked earlier and was effective as between those contracting parties at the time of entry into force for them of this Agreement. In the case of non-original members it can be invoked only if the member not consenting to the application has so notified the ministerial conference before the approval of the agreement on the terms of accession by the ministerial conference. The Ministerial Conference may review the operation of such non-application clause in particular cases at the request of any member and make appropriate recommendations.
From being Member of the WTO arises certain rights and duties. To enhance the osmosis or metamorphosis process is the primary duty arising from membership. The Agreement directs that each member shall ensure the conformity of its laws, regulations and administrative procedures with its obligation as provided in the Agreement.

Each member has the responsibility to contribute promptly to the WTO its share in the expenses of the WTO in accordance with the financial regulations adopted by the General Council.

**RIGHTS ARISING FROM MEMBERSHIP**

i) To represent in WTO, Ministerial Conference which shall meet at least once in every two years.

ii) To represent in WTO, General Council which shall meet as appropriate.

iii) Representation in the Council for Trade in Services, Council for Trade in Goods and Council for TRIPS.

iv) The privileges and immunities to be accorded by a member to the WTO, its officials and the representatives of its members shall be similar to the privileges and immunities stipulated in the convention on the privileges and immunities of the specialized agencies, approved by the General Assembly of the United Nations on 21st November 1947 and

v) Any member of the Agreement has the right to propose an amendment on any part or provision of the Agreements.
Withdraw from the Agreement or the membership is available under XV of the Agreement Establishing the MTO/WTO such withdrawal shall take effect upon the expiration of six months from the date on which written notice of withdrawal is received by Director General of WTO.

ENTRY INTO FORCE

The Agreement came into force on the date determined by Ministers in accordance with paragraph 3 of the Final Act Embodying the results of the Uruguay Round of Multilateral Trade Negotiations. It is due to the role of participants of the Uruguay Round who agreed on the desirability of acceptance of the Agreement with a view to its entry into force as early as possible and not later than. It authorized ministerial meeting to decide on the international implementation of the results including the timing of their entry into force. Under such authorization the Ministerial Meeting decided January 1, 1995 as the date of the entry into force of the Agreement as well as WTO.

A member who accepts this Agreement after its entry into force shall implement those concessions and obligations in the multilateral Trade Agreements that are to be implemented over a period of time starting with the entry into force of this agreement as if it had accepted this Agreement on the date of its entry into force.

How far for the question of TRIPs concerns, the Act 65(1) states that it comes into force after the expiry of a general period of
one year following the date of entry into force of the Agreement Establishing the WTO enters into force, which is as follows:

".... No member shall be obliged to apply the provisions of this Agreement before the expiry of a general period of one year following the date of entry into force of the Agreement Establishing the WTO."

Agreement shall be open for acceptance by signature or otherwise by contracting parties to the GATT and the European communities, which are eligible to become original members of the MTO in accordance with Article XI of this Agreement. Such acceptance shall apply to this agreement and the multilateral Trade Agreements annexed thereto shall enter into force on the date determined by ministers in accordance with paragraph 3 of the Final Act and shall remain open for acceptance for a period of two years following that date unless the Minister decide otherwise."

For the members who become party after the entry into force the Agreement becomes effective on the 30th days following the deposit of the instrument of acceptance.

But the least developed countries are not required for mandatory compliance with obligations arising under WTO. They are provided certain facilities or concessions. For example, the least developed countries recognized as such by the UN will only be required to undertake commitments and concessions to the extent consistent with their individual development, financial and trade needs or their administrative and institutional capabilities. Indeed
this favour is not unbridled. There are major three limitations upon
this favour, which ultimately confine the favour. One, the 11 years
concessions for structural adjustment under Art 66 of TRIPs can
not be invoked from the date when the new entrants get entry to
WTO, rather the court down date begins from the date of entry into
force of the Agreement i.e. Jan. 1, 1995. So, the favour provided
under ARt XI(2) of WTO Agreements is somehow diluted. Two, the
11 years period is provided for structural adjustment. Until and
unless patent regimes will be strong and uniform foreign
investment can hardly flow and structural adjustment hardly
succeeded. Without foreign investment and transfer of technology
structural adjustment cannot succeeded. So under the pressure of
structural adjustment least developed countries as well as
developing counties are bound to unfasten the lure of concessions.

To smoothen the structural reform process developing
countries are facilitated to delay four years of the application of
TRIPS under Art. 65 of TRIPs. Further a developing country not
having protecting of product patent is provided additional five
years. In totality 1+4+5 years i.e. 10 years period for adjustment of
patent regime is available to India and other developing countries.

In view of their special needs and requirements, their
economic financial and administrative contracts and their need for
flexibility to create a viable technological base, least developed
country. Members shall not be required to apply the provision of
TRIPs other than Articles 3, 4 and 5 for a period of 10 years from
the date of application as defined under paragraph 1 of Article 65. The council shall upon duly motivated request by a least-developed member may accord extension of this period.

**STRUCTURE OF WTO**

The WTO is "member-driven" with decision taken by consensus among all member governments.

The WTO is run by its member governments. All major decisions are made by the membership as a whole either by ministers as a whole, either by ministers (who meet at least once every two years) or by their ambassador or delegates (who meet regularly in Geneva) Decisions are normally taken by consensus.

In this respect the WTO is different from some other international organizations such as the World Bank and International Monetary Fund. In the WTO, power is not delegated to a board of directors or the organization's head.

When WTO rules impose disciplines on countries policies that is the outcome of negotiations among WTO members. The rules are enforced by the members themselves under agreed procedures that they negotiated including the possibility of trade sanctions. But those sanctions are imposed by member countries and authorized by the membership as a whole. This is quite different from other agencies whose bureaucracies can for example influence a country's policy by threatening to withhold credit.
Reaching Decisions by consensus among some 150 members can be difficult. Its main advantage is that decision made this way are more acceptable to all members. An despite the difficulty some remarkable agreements have been reached Nevertheless proposals for the creation of a smaller executive body - perhaps like a board of directors each representing different groups of countries - are heard periodically. But for now the WTO is member driven, consensus based organization. So the WTO belongs to its members. The countries make their decisions through various councils and committees. Whose membership consists of all WTO member Topmost is the ministerial Conference, which has to meet at least once every two years. The Ministerial Conference can take decisions on all matters under any of the multilateral trade agreements.

**The Ministerial Conference**

The ministerial conference (MC) is the highest body. It is composed of the representations of the members. The ministerial conference is the executive of the WTO and responsible for carrying out the functions of the WTO. The MC has authority to take decisions in any matters under the relevant MTA. The MC shall meet at least once every two years.

**The General Council**

The General Council (GC) is an executive forum composed of representatives of all the members. It discharges the functions of the MC during intervals between meetings of the MC. The GC shall meet as and when appropriate and necessary.
The GC establishes its own rules for procedures and also approves the rules of procedures for the functional council, namely Council for Trade in Goods, Council for Trade in Services and Council for Trade Related Aspects of Intellectual Property Rights (TRIPs) established by it. The GC is also responsible for

i) The discharge of the responsibilities of the Disputes Settlement Body as outlined in the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), which forms part of the MTA.


The Dispute Settlement Body and the Trade Policy Review Body may have their own respective chairman and establish their own respective rules of procedures for fulfillment of their responsibilities.

**The Functional Councils Under the General Council**

The General Council shall have three functional council working under its guidance and supervision. These are:

a) Council for Trade in Goods.

b) Council for Trade in Services.

c) Council for Trade Related Aspects of Intellectual Property Rights (TRIPs)
**Functions of Three Councils**

a) The Council for Trade in Goods oversees the functioning of the Multilateral Trade Agreement relating to Trade in Goods.

b) The Council for Trade in Services Oversees the functioning of the Multilateral Trade Agreement relating to Trade in Services.

c) The Council for Trade Related Aspects of Intellectual Property Rights oversees the functioning of the Multilateral Trade Agreement connected with Intellectual Property Rights and obligations forming part of the Agreement.

These council establish their respective rules of procedures subject to the approval of the General Council Membership of these council is open to representatives of all members. The councils. The Council will meet as necessary.

**Subsidiary Bodies of the Councils**

The aforesaid three Councils - the council for Trade in Goods, the Council for Trade in Services and the Council for Trade-Related Aspects of Intellectual Property Rights can establish. Subsidiary Bodies which establish their respective rules of procedures subject to the approval of their respective councils.

**The Ministerial Conference of the Councils**

The ministerial conference (MC) establishes three functional committees fear discharge of function signed to them under the Multilateral Trade Agreements (MTA's). These committees are :-
a) Committee on Trade and Development
b) Committee on Balance of Payment Restrictions
c) Committee on Budget, Finance and Administration.

These committees also discharge functions specially assigned to them by the General Council. These committees are open to representatives of all members.

Specially the committee on Trade and Development periodically reviews the special provision in the Multilateral Trade Agreement in favour of the least-developed country. Members and report to the General Council for appropriate action.

The Bodies under the Plurilateral Trade Agreements discharge their functions within the institutional framework of the WTO. These bodies shall keep the General Council informed of their activities on regular basis.

RELATIONS WITH OTHER ORGANISATIONS

The General Council shall arrange effective cooperation with other Inter-government Organisation which have responsibility related to those of the WTO.

The General Council may also make arrangements for consultation and cooperation with non-governmental organizations concerned with matters related to those of the WTO.
SECRETARIAT OF WTO

There is a secretariat of the WTO located at Geneva. It is headed by a Director General.

The Director General is appointed by the Ministerial Conference (MC). The MC sets out all terms and conditions of the office of the Director General.

The officials of the Secretariat are appointed by the Director General who fixes their terms and conditions of service in accordance with the regulations adopted by the Ministerial Conference.

International Character of the Director General and The Secretariat

It has been emphasized that the Director General and all officials of the Secretariat are exclusively International in Character. They are not subject to suggestions or guidance from any individual member country. The Director General and the Secretariat shall discharge their functions fairly and dispassionately under the rules and boundaries of the International Agreements.

BUDGET AND CONTRIBUTION BY MEMBERS

The Director General is responsible for preparing the Annual Budget and Financial Statements of the WTO. He will present the documents to the Committee on Budget, Finance and Administration. The committee will review the Annual Budget
Estimates and Financial statements and make their recommendation to the General Council. The committee on Budget, Finance and Administration shall prepare Financial Regulations based as far as practicable on the regulations and practices of GATT 1947.

The Regulations shall include provision on -

a) Contribution by the members for the expenses of the WTO.
b) The measures to be taken in respect of the members in arrears.

The General Council shall adopt the financial regulations and the annual budget estimates by two-thirds majority comprising more than half of the members of the WTO.

Each member shall promptly contribute to the WTO its share in the expenses of the WTO in accordance with the financial regulations adopted by the General Council.

**STATUS OF THE WTO**

The WTO has legal personality. Members shall endow it with such legal capacity, privileges and immunities as are necessary for the exercise of its functions. The representatives of the members and all officials of the WTO enjoy international privileges and immunities similar to those stipulated in the convention on the Privileges and Immunities of the Specialized Agencies as approved by the General Assembly of the United Nations on November 21, 1947.
DECISION MAKING

The decision-making under WTO is carried out by consensus where a consensus is not arrived at the issue shall be decided by Voting. Decision of the Ministerial Conference and the General Council is taken by a majority of the votes cast unless otherwise provided in the Multilateral Trade Agreements (MTA).

Each member has one vote. When the European Communities exercise their right to vote they shall have a number of notes equal to the number of their member states, which are members of the WTO.

The ministerial conference and the General Council has the exclusive authority of interpretation of this Agreement (Agreement Establishing the World Trade Organization) and of the Multilateral Trade Agreement.

In case of an interpretation of Multilateral Trade Agreements where there is a specific council the Ministerial Conference and the General Council exercise their authority on the basis of recommendation by the respective council overseeing the functioning of that Agreement.

An interpretation shall be adopted by consensus, failing which it shall be adopted by three-fourths majority of the members.

The Ministerial Conference may deride to waive an obligation imposed on a Member by this Agreement (Agreement Establishing the World Trade Organization) or any of the Multilateral Trade
Agreements provided that such decision shall have approval of three-fourths of the members.

A request for a waiver concerning the Multilateral Trade Agreement related to Goods, Services and Trade Related Intellectual Property Rights shall be submitted initially to the Council for Trade in Goods, the Council for Trade in Services or the Council for TRIPS respectively for consideration. Such consideration must be completed within the specified time period not exceeding 90 days. By the end of this the relevant council shall submit its report to the Ministerial Conference.

Any waiver of obligations of a member under these provision shall be reviewed as per terms of this Agreement.

The decision under a Plurilateral Trade Agreement including any decision on interpretation and waivers shall be governed by the provisions of that Agreement.

**AMENDMENTS**

Any members of the WTO may initiate a proposal to amend the provisions of this Agreement (Agreement Establishing the WTO) or any of the thru Multilateral Trade Agreements (MTA) for Trade in Goods, for Trade in Services and for Trade related Intellectual Property Rights TRIPs by submitting such proposal to the Ministerial Conference/General Council. The three council (for Trade in Goods, Trade in Services and TRIPs) may also submit to the Ministerial Conference/General Council the proposals to amend the provisions of the corresponding Multilateral Trade Agreement.
whose functioning they oversee. After the proposal has been table formally at the ministerial conference within 90 days (or any longer period specially decided by MC) the decision of the MC to submit the proposed amendment to the member for acceptance shall be taken by consensus thereafter if the consensus is reached the MC shall submit the proposed amendment to the member for acceptance and for submission of the proposed amendment to the member for action.

In the case of disagreement by the concerned member to accept the proposed amendment, the MC is empowered, depending on the nature of the amendment to decide by a three-fourths majority that the concerned.

Member should be free to withdraw the WTO and other Agreements related to the functioning of the WTO.

Time limits and other conditions have been specified in Article X of this Agreement to ensure:

a) That such proposed amendment are carefully considered by the MC/GC and approved by a sizeable majority of the members.

b) That the concerned member country to which the proposed amendment is directed shall have sufficient time and opportunity to accept the proposed amendment.

c) That in enforcing the proposed amendment if the concerned Member has reservation and does not agree to the
amendment and if the proposed amendment is of such a nature as to justify such action then the concerned member country shall have option to withdraw from the WTO and all related multilateral trade agreements.

This section is elaborate and the detailed steps and procedures have been spell out in Article X of the Agreement.

It also follows that the rules of disciplines and the final appeal by any member country lies with the Ministerial Conference/General Conference.

The creation of WTO replacing the GATT on January 1, 1995 is a landmark in the history of world trading system. It represents the fruition of efforts over a long period of time. This Geneva based world trade arbiter is more global in its membership than the GATT. It has a far under scope than its predecessor. It brings for the first time, trade in service, intellectual property rights and investment into the multilateral trading system.

The Conclusion that we have drawn on the basis of the questionnaire is that the WTO is main organ of implementing the multilateral Trade Agreements. It is the forum for negotiations among its members. In this forum the member nations discuss issues related to MTAs and associated legal instruments. The WTO is also the forum for negotiations on terms of the Plurilateral Trade Agreements. It is third economic pillar of worldwide.
RESEARCH METHODOLOGY

Research is an academic activity and as such the term should be used in a technical sense. According to Clyford Woody research comprises defining and redefining problems, formulating hypothesis or suggested solutions, collecting, organizing and evaluating data, making deductions and reaching conclusions and at last carefully testing the conclusions to determine whether they fit the formulating hypothesis.

Research Methodology is a way to systematically solve the research problem. It may be understood as a science of studying how research is done scientifically. In it we study the various steps that are generally adopted by a researcher is studying his research problem alongwith the logic behind them. It is necessary for the researcher to know not only the research methods/techniques but also the methodology.

Research Process

Before embarking on the details of research methodology and techniques it seems appropriate to present a brief overview of the research process. Research process consists of series of action or steps necessary to effectively carryout research and the desired sequencing of these steps. However the following order concerning various steps provides a useful procedural guideline regarding the research process :-

1. **Formulating the research problem**: There are two types of research problems viz. those which relate to states of nature
and those which relate to relationships between variables. At the very outset the researcher must single out the problem he wants to study i.e. he must decide the general area of interest or aspect of a subject matter that he would like to inquire into.

In the present thesis the researcher wants to study the impact of WTO on Indian Economy.

2. *Extensive Literature Survey*: At this juncture the researcher should undertake extensive literature survey connected with the problem. For this purpose the abstracting and indexing journals and published or unpublished bibliographies are the first place to go to Academic journals, conference proceedings, government reports, books etc. must be tapped depending on the nature of the problem.

3. *Development of Working Hypothesis*: After extensive literature survey, researcher should state in clear terms the working hypothesis or hypothesis. Working hypothesis is a tentative assumption made in order to draw out and test its logical or empirical consequences. As such the manner in which research hypothesis are developed is particularly important since they provide the focal point for research.

4. *Preparing the Research Design*: The research problem having been formulated in clear cut terms the researcher will be required to prepare a research design i.e. he will have to state the conceptual structure within which research would
be conducted. The preparation of such a design facilitates research to be as efficient as possible yielding maximal information.

5. Determining Sample Design: All the items under consideration in any field of inquiry constitute a 'universe' or 'population'. A complete enumeration of all the items in the 'population' is known as a census inquiry. The researcher must decide the way of selecting a sample or what is popularly known as the sample design. In other words, a sample design is a definite plan determined before any data are actually collected for obtaining a sample from a given population. The sample design to be used must be decided by the researcher taking into consideration the nature of inquiry and other related factors.

In the present thesis the components of Research Design are:-

1. The population to be studied.
2. Sample Unit.
4. Research Instruments.

Population to be studied: Population to be studied is - WTO and its impact on Indian Economy.

Sample Unit: Who is to be Suveyed? Here the researcher defines the target population. Politicians, Economists, Academicians, Businessman and Farmers.
The qualifying criteria for target sampling: The researcher has collected data through Random Sampling.

Sample Size: To draw meaningful conclusions only 50 people (Politicians, Economists, Academicians, Businessman & Farmers) from 4 metro cities and villages surrounding these cities is randomly selected (50×4 = 200 Sample size).

Research Instruments: Research Instruments include the various tools which a researcher uses to collect data and analyse the data to draw certain conclusions.

Questionnaire: Data is collected through questionnaire.

Secondary Data is collected through magazines, journals, newspapers, books etc.

6. Collecting the Data: In dealing with any real life problem it is often found that data at hand are inadequate and hence it becomes necessary to collect data hence it becomes necessary to collect data that are appropriate. There are several ways of collecting the appropriate data which differ considerably in context of money, costs, time and other resources at the disposal of the researcher.

Sources of Data: After preparing the details of information required in investigation the researcher will find sources from where the information can be extracted. The sources available for gathering data are:-
- **Primary Data** is the data which is collected afresh and for the first time and in original in character.

- **Secondary Data** refers to the information that already exists somewhere having been collected for another purpose.

In the present thesis the data collected is both of primary and secondary nature. The method of primary data collection is only through questionnaire. Apart from help of journals, magazines, books previous literature current news etc. is taken.

7. **Execution of the Project**: Execution of the project is a very important step in the research process. If the execution of the project proceeds on correct lines the data to be collected would be adequate and dependable. The researcher should see that the project is executed in a systematic manner and in time.

8. **Analysis of Data**: After the data have been collected the researcher turns to the tasks of analyzing of them. The analysis of data requires a number of closely related operation such as establishment of categories the application of these categories to raw data through coding, tabulation and then drawing statistical inferences.

9. **Preparation of the Report or Thesis**: Finally the researcher has to prepare the report of what has been done by him.
LIMITATIONS

1. To study the impact of WTO on Indian Economy is such a vast subject that it becomes difficult to cover every aspect of it.

2. Time and money are major constraints while doing the research.