CHAPTER - VI

Impact of WTO on Foreign Trade with Western European Countries

This chapter makes an attempt to analyze the impact of WTO on Foreign Trade with Western European Countries.

1. Important WTO Agreements

WTO agreement is very important in Indian reference due to its important. The Government of India has made a number of commitment to WTO. These are following:

Quantitative Restrictions (QRs)

Under this QRs on imports maintained on balance of payments grounds were notified to WTO in 1997 for 2,714 tariff lines at the eight digit level. Improvements take place in India’s balance of payments Restrictions had asked India for a phase out for the QRs. An agreement between USA and India was reached which envisaged the phasing out of all QRs by India by April 1, 2001. Under this agreement, India removed QRs on 714 items in the Exim policy announced on March 31, 2000 and on the remaining 715 items in the Exim policy announced on March 31, 2001.
Tariff Lines

India is member of the WTO. It bound about 67 percent of its tariff lines whereas prior to the Uruguay round only 6 percent of the tariff lines were bound (a country 'birds' a tariff rate by committing that it will not raise tariff on that product beyond the "bound" level.

In non-agricultural goods, with a few exceptions ceiling bindings of 40 percent ad valorem on finished goods and 25 percent on intermediate goods, machinery and equipment were undertaken. The phased reduction to these bound levels was required to be undertaken over the period March 1995 to the year 2005.

TRIPs

Under this ruling of the two WTO dispute settlement panels following the complaint made by the USA and the European Union that India had failed to meet its commitments under Article 70.8 (requiring the setting up of the mail Box System) and Article 70.9 (granting of exclusive marketing rights) made it obligatory for the Government of India to make appropriate amendments to the Patents Act, 1970 by April 19, 1999. The Patents (Amendment) Act, 1999 was passed by the Parliament in March 1999 to provide for exclusive marketing rights.
This was followed by the adoption of Patents (Amendment) Act, 2002 in May 2002. To complete, its commitment to the WTO to introduce product patents by January 1, 2005, the Government of India promulgated an ordinance on December 23, 2004. This was followed by the adoption of Patents (Amendment) Act in March 2005. The new patent regime provides for product patents in drugs and farm products.

**TRIMs**

In the agreement, developing countries had a transition period of 5 years upto December 31, 1999 during which they could continue to maintain measures inconsistent with the agreement provided these were noticed.

Under this Indian government mentioned two TRIMs viz. that relating to local content requirements in the production of certain pharmaceutical products and complete balancing requirement in the case of investment in 22 categories of consumer items.

**Customs Valuation Rules**

Customs Valuation Rules, 1998, has been amended to bring it in conformity with the provisions of the WTO Agreement on implementation of Article VII of GATT 1994 in India.
2. Impact of WTO on Indian Foreign Trade

Impact of WTO has been discussed below:

The patent policy as formulated in the Patent Act of 1970, emphasized public interest over monopoly rights. As stated earlier, this policy was based on granting process patents rather than product patents.

This policy was based vehement criticism from MNCs based in the developed countries who accused India of ‘Piracy’. USA MNC’s created pressure, Intellectual Property Rights (IPRs) were included in the Uruguay Round of negotiation.

India initially resisted this inclusion but ultimately signed the agreement as the Draft was offered as a single treaty.

Main Features of Patents (Amendment) Act 2005

1. Scope of Potentiability: However, this has common practice in pharmaceutical sector to file patent application for already known molecules by claiming trivial improvements. ‘This process is often referred to as evergreening.’ Therefore, it is necessary to guard against granting patents to IMDs. ‘Patent protection should be limited to new chemical entities only.’

A feature of an invention that involves technical advance as compared to the existing knowledge or having economic significance
or both that makes the invention not obvious to a person skilled in the art. There are basically three problem:

1. The extent of ‘technical advance’ that would be considered sufficient for the grant of patent would be considered sufficient for the grant of patent would depend on the ‘Subjective Judgement’ of the patent examiner.

2. The inclusion of ‘economic significance’ as a criterion for assessing the incentive step would require close monitoring as patent applicant would be tempted to make exaggerated claims in this regard.

3. The requirement of technical advancement is compromised and diluted by the fact that a patent can simply be granted on economic significance alone.

2. Protecting Rights of Generic Producers: In Patents Act third amendment was focused the future of the generic producers in India who are engaged in the production of pharmaceuticals. The product patent applications of which are in the ‘mailbox’.

The interests of the generic producers in India are sought to be protected in Sec. 11 where it is provided that “the patent holder shall only be entitled to receive reasonable royalty on such enterprises which have made significant investment and were producing and
marketing the concerned product before January 1, 2005 and which continue to manufacturer the product covered by the patent on the date of grant of the patent...”

3. Compulsory Licensing: This was made compulsory licensing to enunciated the right of countries granting patents to every WTO member has “the right to grant compulsory licenses and the freedom to determine the ground upon which such licenses are granted.”

This provision was made for releasing in the main, public interest objectives like access to medicines for all.

The amendment, accordingly, provides for the grants of compulsory license in circumstances of national emergency, extreme urgency, or public non-commercial use.

4. Exports to Poor Countries: Under Patent Ordinance issued in December 2004 had required that if a poor country having of insufficient manufacturing capacity required a generic drug from India. Indian firms are producing under compulsory license for the domestic market for also export their product to poor nations.

5. Pre-grant Opposition: Under the Amendment Act 2005 is the issue of opposition to the grant of patents. Before this ordinance of 2004 had watered down the provisions relating to pre-grant opposition while
introducing past-grant opposition, the amended legislation restores the ground on which pre-grant opposition can be made.

So in this way, this is a good move as it enables challenging the frivolous patent applications before its grant.

Guidelines are not being available in this respect. This will greatly hamper opposition proceedings. Furthermore, no appeal lies against the decision of the controller of patents on the representation to oppose the patent.

Exceptions

There are certain exceptions under patents of product or process may be made, imported or used by or on behalf of the government for its own use or purpose. In other case, Central Government can acquire a patent for public purpose, if necessary.

In same, patented medicine or drug may be imported by the government for the purpose merely of its own use or for distribution in any dispensary, hospital or other medical institution maintained by or on behalf of the government or medical institution specified by the government in public interest.

As we known that trade liberalization benefits mostly the developed countries, but it mean is not that India are losing their gain is limited as compared to that of the developed countries.
Special Consideration

In this, some of the areas like TRIPs, TRIMs and services have been very sensitive as far as the developing countries are concerned, to lower the protection against competition from the unequal developed economies. However, under this agreement, lays down that member countries imposing trade restrictions for balance of payment purposes should do so in a way that causes minimum disruption to International trade and quantitative restrictions should be avoided as far as possible.

Agricultural Trade Liberalization

Under UR proposals in respect of agriculture, as in several other cases give special consideration to the developing countries. In case of developed countries will however, be hit hard. Example: Agricultural subsidies in the European countries have been of the order of 30 to 50 percent.

Agricultural trade liberalization policy, increase in Agricultural prices due to cut in producer subsidies in the developed countries would benefit agricultural exporters, the increase in food prices due to cut in subsidy may adversely affect the food importers.

Most important thing may be noted that it has been alleged that the subsidization of production and export of farm production in the
developed countries would have the effect of discouraging their production in the developing countries, where farmers have not been able to compete with the imported stuff bearing artificially low price because of the subsidies.

Under subsidized category, agricultural exports cannot be dumped on the world market, international agricultural price could go up by as much as 10 percent.

**Textiles Trade Liberalization:**

In textile trade category was estimated to be worth $240 billion a year. Estimates are that after the phasing out of MFA, world exports of textiles may go up $25 billion a year. With a 2.2 percent share in the world textile trade, India’s share in the additional exports could be @ 0.55 billion. But the real gain will depend on the country’s ability to compete with countries like China, Taiwan, South Korea etc. which are considered leaders in the textile trade.

**Services Trade Liberalization**

Developing countries were very apprehensive about the proposal to liberalize trade in services. However, fortunately for them, the differences of opinion between the US & EC on this issue let the service sector largely unaffected.
Implementation Issues

Dubey points out that, subsidies normally maintained by developed countries have been made non-actionable while several of those given by developing countries in pursuit of an export-led development strategy have either been prohibited or put in the actionable category.

Subsidies to farmers maintained by major developed countries have, instead of coming down, gone up primarily because these countries were able to switch over to subsidies permissible under the Agreement on agriculture, before the commencement of its implementation.

Liberalization of textiles trade has been hailed as a boon for the developing countries. However, here also the developing countries have been deceived because developed importing countries have sought to comply with the targets of liberalization set out in the agreement on textiles and clothing (ATC) by taking credit for the items already outside restriction.

As an UNCTAD report points out, rich countries, despite their commitment in the TRIPs agreement, have taken no real steps to share their technology in the interests of reducing poverty.
• The TRIPs agreement includes provisions for technology transfers, but with few details and no discussion on implementation.

• The TRIPs agreement does not provide intellectual property protection for indigenous knowledge such as those used in traditional medicine.

• TRIPs agreement introduces a global minimum standard for promoting invention. Intellectual property regimes are intended to balance the two social goals of promoting inventions and promoting the use of inventions.

India’s Trade Gain

In World Economy, India’s market share in world exports improves to one percent, and that she is able to take advantage of the opportunities that are created, trade gains may consequently be placed at $ 2.7 billion exports per year. In previous year, Indian export was from $ 3.5 to 7 billion worth of extra exports.

However, India’s gain will be much less than those of several other developing countries like China. There are certain reason:

1. India’s share in world trade is very low.

2. The foreign trade - GDP ratio of India is low.
The gain will also depend on the rate of growth of India's exports. The Patent Act, 1970 was amended to align with the WTO stipulations. Various suggestions have been adopted in India to extend protection to knowledge and practices. These are:

i. Documentation of traditional knowledge (TK)
ii. Registration & innovation patent system
iii. Development of a sui generis system

It is assumed that if the material / knowledge is documented, it can be made available to patent examiners the world over so that prior out in the case of inventions based on such materials / knowledge are readily available to them.

**WTO and Other Issues**

Under Information Technology Agreement (ITA) in the mid-December 1996, which take place in Singapore. In this explain to eliminate tariffs to zero level by the year 2000 on the rapidly growing $600 million world market.

- In case of multilateral agreement on Investment (MAI) aims to give MNCs the right foreign MNCs. It would also give member states the right to settle any dispute arising out of non-compliance with the MAI at the WTO.
• In case of Labour standards, these provide the standardized international labour wages and working conditions must prevail. These have since been dropped, and shall be addressed only by the ILO.

• Trade and Environment

• Government procurement policies that should aim at weeding out corruption at governmental level.

**Major Subjects in WTO**

• Relate to Agriculture

• Sanitary measures

• Helping least developed countries

• Clothing

• TRIPs

• GATS

• Anti-Dumping

**Agriculture**: Under this agreement, which seek to reform trade in agriculture and provide the basis for market oriented policies, thereby improving economic cooperation for importing and exporting countries alike.

• It make new rules and commitments in market access, domestic support, and export competition and includes provisions that
encourage the use of less trade distorting domestic support policies to maintain the rural economy.

- It also allows actions to be taken to ease adjustment burdens and provides some flexibility in the implementation of the commitment.

- Special Importance were given for developing countries and addressed including these of net-food importing countries and less developed economies.

Health & Safety Measures: In this agreement, application of sanitary, application of food safety and phyto-sanitary measures but stipulates that they must be based on science, should be applied only to the extent necessary to protect human, animal or plant life or health and should not arbitrarily or unjustifiably discriminate among members where identical.

Helping Least Developed and Food Importing Countries: Under this, least developed and net food-importing developing countries may experience negative effects with regard to giving food supplies on reasonable terms and condition. Such countries need assistance. In this, a special ministries decision calls for appropriate mechanisms related to the availability of food and the provision of
basic food stuffs in full grant from and aid for agriculture development.

In Textiles and Clothes Industry: This agreement provide security the integration of the textiles and the clothing sector where much of the trade is currently subject to bilateral quota negotiations under the multi-fibre agreement (MFA) into the main stream of WTO.

TRIPs: Under this WTO agreements of Trade-related aspects of Intellectual Property Rights (TRIPs) recognizes that widely varying standards in the protection and enforcement of intellectual property rights and the lack of multilateral disciplines dealing with international trade in counterfeit goods have been a growing source of tension in international economic relations.

TRIMs: In this many restrictions explained on their investments in foreign countries. TRIMs are those restrictions a nation places on foreign investment that adversely affect trade in goods & services.

The requirements would violate the prohibition of quantitative restrictions of GATS. Also prohibited are laws that condition the receipt of foreign exchange on the company’s foreign exchange revenues.
GATS is the first set of multilateral, legally enforceable rules covering international trade in services. It was negotiated in the Uruguay round.

Mode 1: Cross border trade. In this delivery of a service from the territory of one country into another.

Mode 2: Consumption abroad. It covers supply of a service of one country to the service consumer of another country. This mode of supply involves the consumer.

Mode 3: Commercial preserve covers services provided by a service supplier of one country in the territory of any other country by setting up a professional establishment.

Mode 4: In this, a mode of service supply or trade where services are supplied by nationals of one country in the territory of another, requiring the physical presence of service provider in the host country. This mode includes both independent service providers as well as employees of the service providers of another member.
Chart 6.1

WTO Impact on India

WTO IMPACT

GATT / GATS

TRIMs

TRIPs

Liberalization of Trade in Goods & Services

Liberalization of International Investments

Provides Monopoly to owners of Intellectual Property

Increases Competition from Foreign Trade

Facilitates Global Sourcing

Opportunity for Indian Firms to Export

Increase Foreign Investment & Competition from Foreign Firms

Facilitates Joint Ventures & Technical of Acquisition

Threat to domestic firms

Benefits Consumers

Increases Competitiveness of Domestic firms

Threat to Domestic Firms

Benefits the economy

Benefits Domestic Firms

Facilitates foreign investment by Indian firms (including Joint Venture)

Encourages Globalization of Indian Firms

[Francis Cherunilam Fifth Edition]

WTO is Special Needs of India

All WTO agreement contain special provision for them, including longer time periods to implement agreements and
commitments, measures to increase their trading opportunities & support to help them build the infrastructure for WTO work, handle disputes and implement technical standards.

WTO's responsibility includes implementation of the agreements, technical cooperation and the increased participation of developing countries in the global trading system.

**WTO Impact on India**

For India WTO lies in the role that a dynamic export including can play in the country's development. In both role of job creation, skill development and technological evaluation, an opening upto the outside world essential.

Another way by forcing industries to sell outside the country and compete for export market that they will have an incentive to evolve.

In other cause for India need to search for external markets - the crucial dependence on imports for survival. In reference for long believed that it is a self-sufficient, independent economy.

In case, for petroleum and fertilizers to capital goods, raw material and lifesaving drugs, Indian economy is vitally dependent on imports.
Being a member of the WTO, India can benefit from the International Trade Centre jointly operated by the WTO and the United Nations and centre responds to requests from developing countries for assistance in formulating and implementing export promotion programmes as well as import operations and techniques.

WTO gives information and advice on export markets and marketing techniques and assists in establishing export promotion and marketing services and training personnel required for these services. The centre's help is truly available to the least developed countries.

The GATT Secretariat further projects that the largest increases will be in the areas of clothing (60%) agriculture, forestry and fishery products (20%) and processed Food and Beverages (19%).

By that India's market share in world exports improves from 0.5% to 1% and that we are able to take advantage of the opportunities that are created, the trade gains may conservatively by placed at 2.7 billion US Dollars extra exports per year.

There are several areas in the Uruguay Round package that relate to market access. The more important ones are tariffs, textiles and agriculture. India's position in all these sectors is advantageous to her and the provisions are favourable to the country.
Another Issues

The claim that trade would increase substantially and that India exports will expand considerably is not acceptable to many.

Under this, few factors like, flow of goods & services across the globe depends not much on trade but on factors like infrastructure, political environment technology, assured supply of exportable goods and quality consciousness of producing countries.

In this, India and other developing countries have blindly walked into the trap laid by the developed countries. WTO will not ensure open trade for goods produced by developing countries.

In other aspect, Uruguay Round negotiations were motivated by the needs of the United States and Western Europe to discover new market for their industries, especially in sectors like services and finance.

And at last, the worst fears expressed about the WTO agreement relate to the steep hike in prices of drugs and agriculture inputs. In this selected drug prices will be costlier across the globe.

3. Advantages of WTO for India

In this topic, we analyzed benefits from reduction of tariffs like GATT, Transparency, MFN Treatment, National Treatment, Free
Trade Principle, Dismantling Trade Barriers, Rules based Trading system, treatment for LDCs, competition.

**National Treatment**: This principle explains that imported and locally produced goods should be treated equally. Article III of the GATT 1994 states that "the products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded no less favourable treatment than that accorded to like products of national origin in respect of all laws, offering for sale, purchase, transportation.

**Dismantling Trade Barriers**: In this, physical restrictions on the import & export of goods are prohibited under GATT. However, member countries can protect domestic industry through tariff. WTO is not a 'free trade' institution. It permits tariffs and other forms of protections but only in limited circumstances.

**Treatment for LDCs**: Under this, recognized the need for positive policies effort to help developing countries reap the benefits of trade liberalization. WTO explains special and differential treatment provisions for developing and least developed countries that run across the whole range of agreements covered by WTO.

**Competition Principles**: WTO is prepared to promote open and fair competition, removal or reduction of tariffs and subsidies while expose
locally produced goods and services to imported ones. In this 'level playing field' take place between foreign and local goods and services and this promotes competition them.

Environment Protection : WTO explains or focus on to the protection of environment. This analysis to the objective of sustainable development and to need to preserve the environment.

Improved prospects for agricultural exports as a result of likely increase in the world prices of agricultural products due to reduction in domestic subsidies and barriers to trade.

Increase in the export of textiles and clothing due to the phasing out of the MFA by 2005.

Advantage from greater security and predictability of the international trading system due to the revamped dispute settlement procedures, and the agreements of safeguard, subsidies ad anti dumping measures.

Compulsion imposed on us to be competitive in world market.

Globalization had adversely attended Indian Industry. it has enabled the developed countries to push their exports to India at a much faster rate but did not facilitate the process of access to International markets.
4. Disadvantage of WTO for India

- Tariff reductions on goods of export of interest to India are very small and other way, there will be erosion of the preference enjoyed by India and India will most probably be graduated out of the generalized system of preferences (GSP).

- India will be under the tremendous pressure to liberalize her services industries.

- In prospects of Agriculture, in agriculture due to the very limited extent of agricultural liberalization.

- In this situation, tremendous pressure will be increase to liberalize her services industries.

- There will be lose policy options in several areas because of - (i) the extensive bindings undertaken by the country; (ii) prohibition of certain type of subsidies and mapping certain other types actionable; (iii) giving up the option of granting process in some sectors; (iv) another disadvantage on India’s ability to apply restrictions on balance of payments ground.

- Commitments in the field of TRIMs & services was increased outflow of foreign exchange.
- Technical dependence like R&D will increase to take advantage of the Uruguay Round may not be undertaken on an adequate scale due to paucity of resources.

- Market structure will change where by only a few large firm or transnational corporations may benefit and smaller & tiny firms may disappear.

- Such increasing intrusion in India’s sovereign domestic space in TRIPs, TRIMs, services and Agriculture.

- Same way Uruguay Round has paved the way for similar other instructions in future through linkages between trade and labour standards, and a new regime for the treatment of foreign capital.

- Trend towards neo-protectionism in developed countries against India’s exports.

- And other possibility of cross-retaliation against India’s goods and services.

- Major disadvantage of a strong regime of IPRs as regards India.

- Developing countries, generally, do not have adequate institutional mechanism and resources to properly administer IPQs regime.
Summary

This chapter makes an effort to critically analyse the impact of WTO on western European countries' foreign trade.

References


