2.1 INTRODUCTION:

The main objective of the WTO is to provide full competitive opportunity of trade among the contracting parties. Its trading system is founded on certain basic principles. The principle of Non-Discrimination requires that all trading partners shall be granted the Most Favoured Nation (MFN) clause. Under the National Treatment, there should be commitment to treat foreign producers and sellers the same as domestic firms. The other fundamental principles are promotion of free trade, predictability and stability to the trading system, promotion of fair competition and special concern for developing countries. It deals in three ways with the special needs of the developing countries. The WTO agreements contain special provisions on developing countries. The committee on Trade and Development keep watch over the special aspects of the WTO agreements related to developing countries and the WTO secretariat provides technical assistance for developing countries.¹

This chapter discusses the basic principles and agreements of WTO. The WTO agreements are a set of rules, which have to be followed by governments in enacting their policies and practices in the areas of international trade in goods and services and intellectual property rights. There are provisions for transparency of actions. Members have opportunity to consult among themselves.² The WTO agreement is described as a “Mini-Charter”. It is strictly institutional and procedural in character. It incorporates some 29 individual texts. These are spread over three compartments, viz., goods, services and intellectual property rights. The three corresponding agreements are, (a) General Agreement on Tariffs and Trade (GATT), (b) General Agreement on Trade in services (GATS), and (c) The Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs) (Table-B-I).

There are two more groups of agreements namely, Agreement on Trade Policy Reviews and the Plurilateral Agreements (not signed by all members).
**TABLE: B-I**

**Basic Structure of WTO Agreements**

<table>
<thead>
<tr>
<th></th>
<th>Goods</th>
<th>Services</th>
<th>Intellectual Property</th>
<th>Dispute Settlement</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Basic Principles</td>
<td>GATT</td>
<td>GATS</td>
<td>TRIPs</td>
<td></td>
</tr>
<tr>
<td>2. Additional details</td>
<td>Other goods agreement and annexes</td>
<td>Services annexes</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Market Access Commitments</td>
<td>Countries Schedule of commitments and exceptions</td>
<td>Countries schedule of commitments</td>
<td></td>
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Section II of this chapter discusses the transformation of GATT into WTO. In the following sections III, IV, V, VI, VII, VIII, we summarize various agreements of WTO. Sections IX reviews India’s responses to the acceptance of WTO.

**2.2 FROM GATT TO WTO:**

The General Agreements on Tariffs and Trade (GATT) was a set of rules with no institutional foundations. It was applied on a provisional basis. Its dispute settlement system was also a loose one. The GATT rules, however did not work effectively to absorb the complexities of world trade, which had been growing steadily since the Bretton Woods days, both in terms of commodity coverage and the nature of regulators applied. Further, it did not cover trade in services, which was assuming extreme significance to a member of countries. Agriculture too was outside the GATT purview. Thus, the emerging world trade situation required a WTO to oversee all these. After the 8 year long Uruguay Round of trade negotiations, the new rule-based trading system, with a new apex body the ‘World Trade Organization’ (WTO) came into existence on January 1, 1995.
The WTO is a permanent institution. Its commitments are full and permanent. It applied to services and Intellectual property also. It has also an improved dispute settlement system. The WTO is equipped with legal authority and provisions for enforcement of the rules and the disciplines of the new trading system.

The Uruguay Round Produced some 28 agreements with provisions to establish about 20 bodies to administer them under the WTO as the common institutional framework for the conduct of trade relations among more than 120 member governments. It was a good thing that unlike IMF and World Bank, the WTO will have one country, one vote. The WTO and its ancillary agreements, e.g., revised GATT (regarding tariffs and trade about goods including agricultural commodities), GATS (regarding services), TRIMs (regarding investment), and TRIPs (regarding intellectual Property Rights) and a Provision for cross retaliation between sectors for violation of the prescribed conditionalities were schedule to come into effect on January 1, 1995, with a grace period of one year for the LDCs.

As far as trade in agriculture is concerned, the original GATT was applied to agriculture also, but the application was ineffective. The GATT Accord of 1947, allowed differential treatment for trade in agricultural commodities. Countries could impose quantitative restrictions to relieve critical food shortages, enforcement of domestic marketing and control programmes and provide subsidies to export surplus agricultural products. The WTO recognizes the differential levels of development of member countries and provides lower levels of commitments. The ultimate goal remains complete integration of all economies in a global trading environment with strong rules and enforcement mechanism. The WTO commitments will increase access of agricultural commodities in the world market.

In regard to the intellectual property rights, the TRIPs would set out the terms and conditions for the international flow of intellectual property. It contains
general principles, which expected to be followed by member countries. The agreement links and clarifies the existing international convention on IPRs with international trade. Detailed guidelines are prescribed as to how the international IPR agreements should be applied, how to give adequate protection to IPRs and how to settle disputes on IPRs and so on.

In the area of services also, the agreement has shown some consideration for the concerns and interests of the developing countries. GATS provides a legal framework for trade in services. Trade in services encompasses practically all varieties of services in use the world over.

The WTO agreement upgrades the GATT to the ministerial level under the new dispensation. New agreements seeking to impose fresh obligations on the members can be incorporated by a decision of a two-thirds majority. The GATT of the past worked in the limited confines of tariffs. Important decisions will be initiated and taken at the level of ministers. In the past, a ministerial level meeting was a rare event in GATT. The system is rule based in that in most areas covered by it, there are detailed rules set down on paper, and while some of the rules still have a great deal of ambiguity in some areas, they are certainly clearer than GATT. It eliminates and makes illegal any scope for unilateral interpretations and determination by any one party to any agreement.

Whether country should join the WTO or remain out was debated with the full implications. Both pros and cons were laid out in public. Like the good and bad of everything, there can be good and bad of GATT-1994 or WTO with regard to international trade. No one can say that WTO has no good points at all, nor one can say that WTO has no weaknesses. Whatever may be the intensity of the debate, there is now no uncertainty about WTO becoming the apex institution for world trade, almost on par with the Bretton Woods institutions such as the World Bank and the IMF.
2.3 GENERAL AGREEMENT ON TRADE IN GOODS (GATT):

These include elaborate agreements on 12 subjects in the area of trade in goods. These are, Agriculture, Textiles and Clothing, TRIMs, Sanitary and Phyto-Sanitary Measures (SPS), Technical Barriers to Trade (TBT), Anti Dumping, Custom Valuation, Preshipment Inspection, Rules of Origin, Import licensing, Subsidies and countervailing Measures and Safeguards.

2.3.1 Agreement on Agriculture (AOA):

The Agreement on Agriculture (AOA) is a part of the GATT-1994 agreement. Before Uruguay Round, agriculture was not the subject of GATT, but it was brought by the Uruguay Round into the mainstream of WTO negotiation. The broad aim of this agreement is to correct and prevent restrictions and distortions in world agricultural markets. The main provisions of the Agreement on Agriculture (AOA) are related to Improved Market Access, Domestic Support Mechanism, and Export Subsidies.

Article 2, of the AOA consists of agreements on product coverage, applies to the agricultural products, which are listed in Annex 1, of the AOA. These include mannitol, essential oils, hides and skins etc. Incorporation of concessions and commitments comes under Article 3, of the AOA. A member shall not provide support in favour of domestic procedures in excess of the commitment levels, and the listed export subsidies in respect of the specified agricultural products or group of products in excess of the budgetary outlay and quantity commitment levels.

Market access concessions contained in schedules relate to binding and restrictions of tariff and to other market access commitments as specified there in (Art.4). It conceives of the replacement of non-tariff barrier measures by tariffs, which provide almost the same level of protection. Tariff which results from this process and other tariffs on agricultural products are to be reduced by an average of 36 percent over a period of 6 years in case of developed countries, 24 percent (2/3rd of 36%) over 10 years in case of developing countries. Least developed countries (LDCs) are not required to reduce their tariffs.
Article 6 and 7 of Agreement on Agriculture (AoA) contains Domestic Support Commitments. The AoA defines two types of domestic supports, one with minimal or no distortive effects on trade and the other having trade distorting effects. The former is often referred to as the “Green Box Measures” and the later as “Amber Box Measures”\(^8\). The Domestic Support is measured in terms of the Total Aggregate Measure of Support (Total AMS). This is the total amount of support given to each category of agricultural product. The Green Box Policies are excluded from reduction commitments.

If the price support is not based on differential market prices, the AMS is the amount of the government’s budgetary outlay.

While the agricultural agreement leaves the actual percentage reductions of domestic support to be specified in the schedule of commitments, it contains a number of exclusions from the reduction requirements, such as, set of exclusion allow support provided generally to the agricultural sector and only indirectly benefit producers.

Export Competition Requirements (Arts.8 to 12) under the agricultural agreement prohibits its countries from providing export subsidies measured in terms of budgetary outlays and quantities subsidized in excess of the levels specified in a country’s schedule of commitments.

In keeping with the recognition that differential and more favourable treatment for developing country members is an integral part of the negotiation, special and differential treatment in respect of commitments shall be provided as set out in the relevant provisions of this agreement and embodied in the schedule of concessions and commitments (Art. 15).\(^9\)

As per Article 17 of AOA, A committee on agriculture is established. AOA has also made references to Non-Trade Concerns (NTCs) that would have to be taken on board while the agreement is being implemented by the WTO member countries. These NTCs include food security and the protection to the environment among others.\(^10\)
2.3.2 Agreement on Textiles and Clothing:

From 1974 onwards, the Multi Fibre Agreement (MFA) took over the textile trade. Through the MFA, industrialized countries established quotas on imports of textiles and clothing from the competing developing countries. This agreement is intended to set out provisions to be applied by members during a transitional period for the integration of the textiles and clothing sector into GATT, 1994.

All quantitative restrictions within bilateral agreements in force under MFA on the day before the entry into force of the WTO agreement (i.e. 1.1. 95) within 60 days shall be notified to the Textile Monitoring Body (TMB). The existing trade restrictions, based on the MFA are to be phased out into four stages (the reference point is the 1990 import Volume):

1. at least 16% on 1, Jan’ 1995.
2. at least a further 17% on 1, Jan’ 1998.
3. at least a further 18% on Jan’ 2002, and
4. the remaining trade barriers are to be removed by 1 January 2005.\textsuperscript{11}

\begin{table}[h]
\centering
\begin{tabular}{|c|c|c|}
\hline
Jan 1, 1995 & 16 Percent & (of its total volume of imports in 1990) \\
\hline
Jan 1, 1998 & Further 17% & (of its total volume of imports in 1990) \\
\hline
Jan 1, 2000 & Further 18% & (of its total volume of imports in 1990) \\
\hline
Jan 1, 2005 & All remaining Products & (of its total volume of imports in 1990) \\
\hline
\end{tabular}
\caption{Integration of Textiles Trade}
\end{table}

\textbf{Source:} Richard Senti, Patricia Colam (1998): “Regulation of World Trade after the Uruguay Round”, Zurich, Pg. 73.

On January 1, 2005, MFA are fully phased out.

The WTO members shall also take necessary action to achieve improved access to markets for textiles and clothing products, ensure the fair and equitable trading policies to avoid discrimination against imports in the textiles and clothing
sector. Under Article 8, of the agreement a Textile Monitoring Body (TMB) is to be established to supervise the implementation of this agreement and to examine all measures taken under this agreement. Whenever the TMB is called upon to make recommendations, it shall do so within a period of 30 days. The council for Trade in Goods shall conduct a major review before the end of each stage of the integration process to oversees the implementation of this Agreement. The TMB shall develop its own working procedures.

2.3.3 Agreement on Trade Related Investment Measures (TRIMs):

The WTO Agreement on Trade Related Investment Measures (TRIMs) is one of agreements covered under Annex I A to the Marrakesh agreement, which was signed at the end of the Uruguay Round. TRIMs refers to certain conditions or restrictions imposed by a government in respect of foreign investment in that country. According to Article 1, of TRIMs agreement, this is applied only to investment measures related to trade in goods.

The agreement addresses investment measures that are trade related and that also violate Article III (National Treatment) or Article XI (General elimination of quantitative restrictions).

All types of performance requirements, such as exports obligations and technology transfer requirements that are imposed by governments are consistent with the provision of the agreement and can be employed. Where as the following TRIMs are considered as inconsistent,

1. Local content requirement, which refers to a certain amount of local inputs be used in products.
2. Trade balancing requirement, indicates that imports shall not exceed a certain proportion of exports.
3. Trade and foreign exchange balancing requirements.
4. Domestic sales requirements need that a company shall sell a certain proportion of its output locally\(^{12}\).
Some attentions are drawn in regard to TRIMs, such as there is no requirement in the proposals to give a preferential treatment to foreign investors, and would be subject to some restrictions. Government ability remains unimpaired to impose export obligation on foreign or domestic investors etc.

It is required that the trade related performance requirements imposed by the host country governments on foreign affiliates are notified within 90 days of the agreement coming into force and should be eliminated in a phased manner. The transition period allowed for industrialized countries are 2 year whereas for developing and LDCs, the limits are 5 and 7 years respectively. These duration may be extended for developing countries and LDCs, if requested\textsuperscript{13}.

Under Transparency Requirements (Art. 6) each contracting party shall notify the secretariat of the publication in which TRIMs may be found and those which are applied by the regional and local governments and authorities within their territories. A committee open to all WTO members shall also be established. The Council for Trade in Goods assigned responsibilities to it. It shall review the operation of the TRIMs, no later than 5 years after the date of entry into force of the WTO agreement. The agreement allows the provision for dispute settlement understanding, which shall apply to consultations and the settlement of dispute under the TRIMs.

\textbf{2.3.4 Agreement on Sanitary and Phyto-Sanitary (SPS) Measures:}

The Agreement on Sanitary (human and animal health) and Phyto-sanitary (Plant health) measures seeks to protect consumers by providing rules for food safety and health of plants and animals.\textsuperscript{14}

Because of a concern among agricultural exporters that the hard won benefits to them from the agriculture agreement would be reduced by current farm protectionist measures being replaced by alternative measures such as quantitative restrictions, an agreement on Sanitary and Phyto-Sanitary (SPS) measures was negotiated. The SPS agreement seeks to ensure that any such SPS import restrictions are imposed only to the extent necessary to ensure food security &
safety and animal and plant health on the basis of scientific information and are at
the least trade restrictive measures available to achieve the risk reduction desired\textsuperscript{15}.

This agreement applies to all SPS measures, which may directly or indirectly affect international trade. SPS means any measures applied,
1. to protect animal or plant life or health from risks arising from the entry, establishment or spread of pests, diseases, disease carrying organisms or disease causing organism,
2. to protect human life or health from diseases carried by animals, plants, or products, and
3. to prevent or limit other damage.

SPS include all relevant laws, decrees, regulations, requirements, certifications, packaging & labelling requirements, etc. which are directly related to the food safety.

In order to harmonise SPS measures on as wide a basis as possible, the SPS agreement favours international standards. The agreement allows member to introduce or maintain SPS which result in a higher level of protection than would be achieved-based on relevant international standards.\textsuperscript{16}

If the members wish to apply more stringent measures than the international standards, then they are obliged to base their risk assessment and level of SPS protection on scientific evidence and their levels should not be more trade restrictive. The transparency of the agreement requires the member to ensure that all SPS measures and changes in them are notified in a transparent manner, through a single national enquiry point\textsuperscript{17}.

Under Article 9, of the agreement, members agree to facilitate the provision of technical assistance to other members. A committee on SPS measures may be established to provide a regular forum for consultations. The least developed country members may delay application of the provisions of this agreement for a
period of 5 years, following the date of entry into force of the WTO agreement with respect to their SPS measures, affecting importation on imported products. This duration for other developing country members, other than paragraph 8 of Article 5 and Article 7, are 2 years.

### 2.3.5 Agreement on Technical Barriers to Trade (TBT):

In order to avoid the trade restrictive effects of technical regulations and standards, and with a view to improving cooperation between the individual contracting parties in the elaboration, adoption and application of technical requirements, an agreement dealing with Technical Barrier to Trade (TBT) was concluded in the course of the Tokyo Round. This agreement reworked and extended, is now part of the new world trading system.

This agreement on TBT makes differentiation between technical regulations, technical standards and specifications. The agreement on product characteristics or their related processes and production methods comes under technical regulations. It may also include or deal exclusively with terminology, symbols, packaging, marking or labeling requirements as they apply to a product, process or production methods.

Standard is a document approved by a recognized body, that provides for common and repeated use, rules, guidelines or characteristics for products or related processes and production methods, with which compliance is not mandatory. The specification and assessment of a product refers to the level of quality, the performance, the packing, the identification or the description of the product.\(^{18}\)

The objectives of TBT agreement are retention of MFN and the principle of national treatment, transparency of regulations and norms, cooperation between the members, harmonization of the measures adopted and uniform dispute settlement procedure within the WTO framework.

Technical regulations shall not be more trade restrictive than necessary to fulfil a legitimate objective which includes national security requirements, etc.
with a view to harmonizing technical regulations on as wide a basis as possible, member shall conduct a full part within the limits of their resources. The WTO member shall ensure that their central government standardizing bodies accept and comply with the code of good practice for the preparation, adoption and application of standards. The members shall formulate and adopt international systems for conformity assessment.

Developing country members shall receive differential and more favourable treatment by other members to this agreement. A committee on TBT is established. The members can consult on any matters relating to the operation of this agreement. There also exists a dispute settlement body to deal with the problems relating to this agreement. Article 15, of this agreement allows the committee to review annually the implementation and operation of this agreement.

2.3.6 Agreement on Anti-Dumping:

In an era of open trade and globalization, antidumping has acquired a special significance, primarily as a means of checking unfair trade practices and promoting fair competition. It is essentially a mechanism of defence, provided for under Article VI, of GATT 1994 and allows all member countries to apply antidumping measures wherever warranted for protecting their domestic industry from unfair competition.19

Anti-dumping measures can be unilaterally imposed by a WTO member on an imported product, provided the imported product is dumped, and it is causing material injury to the domestic industry, and there is a casual link between the dumped imports and material injury. When an exporter sells a product at a price less than the price prevailing in its domestic market, it is said that dumping has taken place. The amount of anti-dumping duty cannot exceed the margin of dumping, which is calculated as the difference between the normal value and the export price of a product. Material injury is defined as material injury itself, threat of material injury, or material retardation of the establishment of a domestic industry. For the purpose of determination of injury, the anti-dumping agreement
requires an objective examination, such as, of the volume of the dumped imports on prices in the domestic market for like products etc.

The domestic industry is defined as producers of a “like product”. The agreement establishes the requirements for the initiation of investigations. No provisional measures may be applied sooner than 60 days after initiation of an investigation.

Article 10, of the anti-dumping agreements establishes the general principle, that both provisional and final antidumping duties may be applied only as of the date on which the determinations of dumping, injury and causality have been made. There are provisions for judicial review under Article 13, according to which, each member whose national legislation contains provisions on anti-dumping measures shall maintain judicial, arbitral or administrative tribunals or procedures for the purpose, while considering the application of antidumping measures of the developing countries, the developed countries must provide special regards to their special situation\textsuperscript{20}.

A committee, consisting of representatives from each of the members, on anti-dumping is established. The dispute settlement understanding of the anti-dumping agreement is applicable to consultations and the settlement of disputes. The final provisions of the anti-dumping agreement requires the member to bring their laws into conformity with the anti dumping agreement by the date of entry into force of the anti-dumping.

2.3.7 Agreement on Custom Valuation:

Custom value of imported goods refers to the value of goods for the purpose of levying advalorem duties of customs on imported goods. The decision on custom valuation would give customs administrations the right to request further information of importers, where they have reason to doubt the accuracy of declared value of imported goods.

The agreement on custom valuation setout five methods of establishing customs valuation as well as a catch all clause. These are as follows:
Method 1: The custom value of the imported goods is the transaction value, i.e., the price actually paid (including any commission and packing).

Method 2: If the price actually paid cannot be determined, the custom value is the transactions value of identical goods, which have been imported under the same competitive conditions.

Method 3: If neither of the first two methods is appropriate, the custom value will be the transaction value of similar products.

Method 4: If none of the first three methods can be applied, it will be ascertained according to the selling price of the product in the country of importation, excluding the appropriate relevant costs and reasonable profit margin.

Method 5: The custom value corresponds to the sum of the production costs, trade margin in the country of exports as well as the related costs referred to in the first method above. If the actual customs value of a product cannot be established by means of one of the five above methods, the authorities will determine the value by taking into account the all relevant factors into account\textsuperscript{21}.

All the confidential information shall not be disclosed without the specific permission of the person or government who gives such information. There also exists a committee on custom valuation. A period of five years are provided to non industrial countries, in case, she delays, application of the provision of the agreement. The committee shall annually inform the council for trade in goods of development during the period covered by such reviews.

2.3.8 Agreement on Pre-Shipment Inspection:

Pre-shipment Inspection (PSI) is the practice of employing specialized private companies to check shipment details, essentially price, quantity, quality of goods ordered overseas. As per the agreement, all preshipment inspection activities carried out on the territory of members, whether such activities are contracted or mandated by the government, or any government body of a member.

There are various obligations for user members such as, non-discrimination, which requires that the user member shall make sure that the
preshipment inspection activities are carried out in a non-discriminatory manner. User member shall also ensure that all preshipment inspection activities are performed in the custom territory in which the goods are manufactured. Unreasonable delays in inspection of shipments should be avoided, etc.

There also exists some obligation for exporter members, which relates to non-discrimination principle, transparency and technical assistance. The agreement provides for the establishment of independent review entities to deal with disputes. Member shall submit the copies of laws and regulations to the secretariat by which they put this agreement into force, as well as copies of any other laws and regulations relating to preshipment inspection.

The Ministerial conference shall review the provisions, implementation and operation of this agreement and based on this review, it may amend the provisions of the agreement. There are also provisions of dispute settlement understanding, where any dispute among members regarding the operation of this agreement can be settled22.

2.3.9 Agreement on Rules of Origin:

The clear and predictable rules of origin and their application facilitate the flow of international trade. The rules of origin are those laws, regulations and administrative determinations of general applications, applied by any member to determine the country of origin of goods. These rules of origin shall include all rules of origin used in non-preferential commercial policy instrument, anti-dumping and countervailing duties, safeguard measures, origin marking requirements and any discriminatory quantitative restrictions or tariff quotas.

Member shall take some disciplinary measures during their transition period and shall also follow some rules after their transition period. Member shall make sure upon the implementation of the results of the harmonization work programme such as, that they apply rules of origin equally for all purpose.

Article 4 of this agreement assigns responsibility for the implementation of the technical annexes to the committee on rules of origin. The committee shall
review annually the implementation and operation of the agreement having regard to its objectives. Until the completion of the harmonization programme, contracting parties would be expected to ensure that their rules of origin do not have any restricting, distorting or disruptive effects on international trade, etc.

The committee and the technical committee shall be the appropriate bodies to conduct the work programme. The results of the harmonization work programme and subsequent work shall be established by the ministerial conference in an annex as an integral part of this agreement.

This agreement on rules of origin contains at the end two more Annexes. One contains the responsibility and representation of the technical committee on rules of origin. The other one consisted of the content of common declaration with regard to preferential rules of origin.

2.3.10 Agreement on Import Licensing:

Import Licensing is the administrative procedures used for the operation of import licensing regimes, requiring the submission of an application or other documentation to the relevant administrative body as a prior condition for importation into the customs territory of the importing member. The rules for import licensing procedures should be neutral and fairly administered in equitable manner. It must be published before 21 days to the effective date of requirement.

Under Automatic Import licensing, approval for the application is granted. It may be necessary, whenever other appropriate procedures are not available. The provisions, which do not come under automatic import licensing procedures, are referred to as Non-automatic import licensing. It should not have any trade restrictive or distortive effects on imports except those, caused by the restriction imposed.

Each Member is required to publish sufficient information for other members and traders to know the basis for granting and allocating licenses. Any person, firm or institution who fulfils the legal and administrative requirements of the importing member will be equally eligible to apply and to be considered for a
license. A committee is also established on Import licensing, which affords members the opportunity of consulting on any matters related to the operation of this agreement. The implementation and operation of this agreement shall be reviewed by the committee, at least once every two years, and as per they needed. The operation of this agreement shall be subject to dispute settlement understanding.

Under the final provisions of the agreement, no provisions will be granted reservations without the prior consent of the other members. Each member shall ensure the conformity of its laws, regulations and administrative procedures with the provisions of this agreement, not later than the date of entry into force of the WTO agreement for it. Any member who brings about changes in its laws and regulations relevant to this agreement must inform the committee.

2.3.11 Agreement on Subsidies and Countervailing Measures:

A subsidy is defined as the financial contribution by a government or any public body, in the form of a direct transfer of funds or other state measures, which promote exports and give an advantage to domestic goods over imports. The main recipients of subsidies in individual countries are unquestionably agriculture, mining, textiles, and ship building.

This agreement differentiates between specific and non-specific subsidies. Those subsidies which are directed at a defined industry or industries or to an enterprise or group of enterprises excluding any third parties, are specific subsidies. On the other hand, Non-specific subsidies apply to all enterprises provided they fulfill certain conditions, which are known in advance. The main thrust of the agreement is specific subsidies. The agreement describes three types of subsidies, viz., (a) Subsidies automatically prohibited, (b) Actionable subsidies, i.e., subsidies which are prohibited to a degree and (c) Non-actionable subsidies, i.e., which are allowed. The prohibited subsidies include, those contingent, in law or infact, whether solely or as one of several other conditions, upon export
performance, and those contingent, whether solely or as one of several other conditions, upon the use of domestic over imported goods.

Actionable subsidies are prohibited to a degree. Under this, no member should cause, through the use of subsidies, adverse effects to the interests of other signatories. Where as, Non-actionable subsidies could either be non-specific or specific subsidies involving assistance to industrial research and precompetitive development activity, assistance to disadvantaged regions, etc. Whenever other member believes that this non-actionable subsidy is producing serious adverse effects to a domestic industry, may seek a determination and recommendation on the matter.

Article 10 to 23 of this agreement includes countervailing measures. One part of this concerns the use of countervailing measures on subsidized imported goods. The agreement declares that, in cases where the subsidies amount to less than 1% of the value of the product or where the injury is due to an oversight, the investigation should be curtailed. A countervailing duty shall remain in force only as long as and to the extent necessary to counteract subsidization which is causing injury. Under the agreement, a committee is established on subsidies and countervailing measures, containing representatives from each of the members.

Under the other provisions related to this agreement, any specific subsidy granted within the territories shall be notified by the members. Special and differential treatment of developing countries is provided.

2.3.12 Agreement on Safeguards:

The agreement on safeguards establishes rules for the application of safeguard measures provided for in emergency action on imports of particular products (Article XIX of GATT). It contains 38 paragraphs. If a domestic industry is threatened with serious injury, members may take safeguard actions, i.e., import restrictions, to protect a domestic industry from the negative effects of an unforeseen import surge. But, once the Uruguay Round liberalized imports and
prohibited grey area measures, protectionism began to surface through antidumping and countervailing duties and the safeguard agreement.

A member may apply safeguard measure to a product only if that member has determined, pursuant to the provisions, that such product is being imported into his territory in such increased quantities, absolute or relative to domestic production, and under such conditions as to cause serious injury to the domestic industry that produces like or directly competitive products. The safeguard investigation requires public notice for hearings and other appropriate means for interested parties to present evidence, etc. The safeguard measures should be applied only to the extent necessary to prevent or remedy serious injury and to facilitate adjustment.

The agreement also allows member to apply provisional safeguard measures through tariff increases, and will not last for more than 200 days. As per the time limits requirement, all safeguard measures should not exceed 4 years, except under some exceptional cases, up to a maximum of 8 years. The agreement also envisages consultations on compensation for safeguard measures.

There are provisions of special and differential treatment with respect to application of safeguard measures against developing countries. A developing country member has the right to extend the period of application of a safeguard measure for a period of up to 2 years beyond the normal maximum.

A member shall immediately notify the committee on safeguard, if he initiates an investigatory process relating to the serious injury or threat, there of, and the reasons for it, making a finding of serious injury and taking a decision to apply or extend a safeguard measure. Any member who is taking provisional safeguard measures should also notify the committee related to it. A committee on safeguard is established. The committee will carry out the surveillance function on safeguard measures. The usual dispute settlement mechanism will apply as per Article 14, of this agreement.
2.4 GENERAL AGREEMENT ON TRADE IN SERVICES (GATS):

The Uruguay Round widened the scope of multilateral trade negotiations to include services for the first time in the history of trade negotiations. The outcome of these negotiations was the General Agreement on Trade in Services, or GATS, which entered into force on January 1, 1995, with a set of binding rules and disciplines to promote “orderly” and “transparent” trade and investment liberalization in services. The agreement consists of VI parts, XXIX Articles and 8 Annexes. The GATS is a comprehensive legal framework of rules and disciplines, covering 161 service activities across 12 classified sectors. These consist of as wide ranging as telecommunications, financial, maritime, energy, business, education, environment, and distribution services.

Part I of the basic agreement defines its scope, specifically services supplied from the territory of one party to the territory of another, services supplied in the territory of one party to the consumers of any other (for e.g. tourism), services, provided through the presence of service providing entities of one party in the territory of any other (for e.g. banking) etc. GATS consists of three major sections, i.e., general obligations, specific commitments and commitments in specific sector such as financial services, telecommunications, air transport and also has provisions applicable to labour.

Part II (Arts. II to XV), sets out general obligations and disciplines, among which Most Favoured Nation (MFN) obligation prevents countries from discriminating among foreign suppliers of services. However, parties may indicate specific MFN exemptions, as MFN treatment may not be possible for every service activity.

The third obligation is the transparency requirements, according to which each member country shall promptly publish all its relevant laws and regulations, pertaining to services including international agreements, pertaining to trade in services to which the member is signatory. The increasing participation of developing country members in world trade shall be facilitated through negotiated
specific commitments. Least developed country members shall be provided specific priority. GATS allows countries to enter into regional integration agreements, liberalizing trade in services. It also requires domestic regulation of services to be based on objective criteria, such as competence to provide the services should not be more burdensome than necessary to ensure the quality of a service.

This agreement contains obligations with respect to recognition requirements (educational background, for instance) for the purpose of securing authorizations, licenses or certifications in the services area, through harmonization and internationally agreed criteria. Further provisions state that, parties are required to ensure that monopolies and exclusive services providers do not abuse their positions. There shall be multilateral negotiations on the question of emergency safeguard measures based on the principle of non-discrimination.39

Part III of the agreement comprises of specific agreements. The commitments also include national treatment, i.e., to treat foreign national (suppliers) of services like domestic suppliers and provision of market access. The intention on the market access provision is to progressively eliminate the types of measures, such as, limitations on members of service providers, on the total value of service transactions and so on.

Part IV of the agreement consists of articles XIX to XXI, establishes the basis for progressive liberalization in the services through successive rounds of negotiations, and the development of national schedules.

Part V of the agreement contains institutional provisions, including consultations and dispute settlement and the establishment of a council on services. GATS also set-forth certain requirements applicable in specific sectors:
1. The first of the annexes to the agreement concerns the movement of labour.
2. It also provides financial services. A financial service is any service of a financial nature offered by a financial service supplier of a member. These include insurance, banking and services provided by other financial
institutions, either by the private sector or by the public sector. Services supplied in the exercise of governmental authority shall not be covered by the agreement. A country must allow its residents to purchase financial services in the territory of another country.

Ministerial meeting has established a committee on financial services to monitor the progress on liberalization in the field and to report it periodically.

3. Protocol on basic telecommunications was signed on 15th February, 1997. It has become effective from Jan 1, 1998.

Telecommunications means the transmission and reception of signals by any electromagnetic means. Public telecommunications services include, interalia, telegraph, telephone, telex and data transmission. The annex on telecommunications relates to measures which effect access to and use of public telecommunication services and networks. In particular, it requires that such access be accorded to another party, on reasonable and non-discriminatory terms, to permit the supply of service included in its schedule30.

4. The Annex on Air-transport services. It excludes from the agreement’s coverage traffic rights and directly related activities, which might effect the negotiation of traffic rights. GATS instead applies to airline maintenance and repair, computerised reservation services and the marketing of air transport services. The actual requirements with respect to air transport will be specified in a country’s schedule of commitments.

2.5 **Agreement on Trade Related Aspects of Intellectual Property Rights:**

The broad objective of the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs) agreement is to let individual countries reap the exclusive fruit of human intellect originating in their local traditions. Scientific discoveries and research work experience and so on. When countries compete for mobile technological knowledge, property rights become important. These relate to all sorts of intellectual property, copy rights and associated rights, trademarks,
industrial designs, patents, the layout designs of integrated circuits and geographical indications (like appellations of origins). The agreement on TRIPs forms an integral part of the GATT, Uruguay Round and the draft final act was signed in December 1993 and the pact was signed in Marrakesh on April 15th, 1994. TRIPs like other WTO agreements, is an agreement on a legal framework. The agreement on TRIPs consist of 73 Articles in VII Parts. The IPR are private rights, but there is need for a multilateral framework of principles, rules and disciplines dealing with the IPR (intellectual property rights).

Part I of the agreement sets out general provisions and basic principles. As a matter of protection of intellectual property, any advantage, favour, privilege or immunity granted by a member to the nationals of any other country must be accorded immediately and unconditionally to the nationals of all other members. The objective of TRIPs, to bring into the ambit of the WTO, is to contribute to the promotion of technological innovation, transfer and dissemination of the knowledge to the mutual advantage of producers and users in way as to create a fair social and economic global order.

Part II, of the agreement addresses each intellectual property rights in succession. With respect to copyright, contracting parties are required to comply with the substantive provisions of the Berne convention for the protection of literary and artistic works. Computer programmers are to be protected as literary works.

With respect to trademarks and service marks, the agreement defines the types of signs that must be eligible for protection as a trade or service mark and the minimum rights conferred on the owners.

In respect of geographical indications, the agreement lays down that all parties must provide means to prevent the use of any indication, misleading the consumers as to the origin of goods and any use constituting an act of unfair
competition, which are protected even where there is no danger of the public’s being misled as to the true origin.

Industrial designs are also protected for a period of 10 years. The agreement requires that 20 year patent protection be available for all inventions, whether of products or processes, in almost all fields of technology. Members also agree to provide protection to the layout designs of integrated circuits. Protection on layout design must be available for a minimum period of 10 years.

Finally, in the TRIPs agreement section on controlling anti-competitive practices in the licensing of patented inventions, provides that WTO members are free to define in their own legislation, what licensing practices or conditions shall be treated as an abuse of IPR and may adopt appropriate measures to prevent or control those practices.

Part III, of the agreement, sets out the obligations of member governments to provide procedures and remedies under their domestic law to ensure that IPR can be effectively enforced, by foreign right holders as well as by their own nationals. Laws and regulations and final judicial decisions and administrative rulings of general application, made effective by a member pertaining to the subject matter of this agreement shall be published or made publicly available.

Under the transitional agreement, it has been agreed to provide a one-year transition period for the developed countries, to bring their legislation and practices into conformity with the agreement. The transition period for developing countries is 5 years, and for the LDCs, it is 11 years. Developing countries, which do not provide product patent protection in an area of technology have been permitted a period of 10 years to introduce such protection.

Under institutional arrangements, the council of TRIPs shall monitor the operation of this agreement and in particular member’s compliance with their obligations here under, and shall afford members the opportunity of consulting on matters relating to the TRIPs.
2.6 Agreement on Dispute Settlement Undertaking:

As the central pillar of the multilateral trading system and the WTO’s most individual contribution to the stability of the global economy, its function is to provide security and predictability to the multilateral trading system. It preserves the rights and obligations of the members under the covered agreements. The understanding on rules and procedures governing the settlement of disputes (DSU) was the agreement through which the dispute settlement mechanism under the new WTO was established\textsuperscript{34}.

The dispute settlement mechanism under the WTO is the subject matter of chapter 27, under section V. It has 26 separate articles and is covered under Annex 2 to the WTO agreement. It spells out the general provision for a unified dispute settlement mechanism. Countries bring dispute to the WTO if their rights under the agreements are being infringed\textsuperscript{35}. The WTO members are committed not to take unilateral action against a trading partner but rather to seek recourse through the WTO Dispute Settlement Body (DSB) and to abide by its rules and findings. The DSB shall have the authority to establish, and adopt panel and Appellate Body reports.

Under the condition of a request for consultations, the members to which the request is made, shall reply to the request within 10 days and shall be enter into consultations in good faith within a period of no more than 30 days. The complaining party may request the establishment of a panel if it exceeds 60 days without any settlement. For perishable goods, this limit should not exceed 10 days. Panel reports may be considered by the DSB for adoption 20 days after they are issued to members.

There is an Appellate Body, composed of seven members, to hear appeals. This body is to consider only issues of law and legal interpretations by the panel, and it too issues a report, which must be accepted by unanimous decision of the DSB. Appellate proceedings shall not exceed 60 days from the date a party formally notifies its decision to appeal. In no case shall the proceeding exceed 90
days. The dispute settlement procedure should be completed within 9 months, or the event of an appeal, within 12 months.\textsuperscript{36}

Expedition arbitration, as an alternative means of dispute settlement within the WTO can facilitate the solution of certain disputes that concern issues that are clearly defined by both parties.

Thus, the WTO procedure for resolving trade quarrels under the Dispute Settlement Understanding (DSU) is vital for enforcing the rules and therefore for ensuring that trade flows smoothly.

2.7 **The Trade Policy Review Mechanism:**

The WTO Trade Policy Review Mechanism (TPRM) was promoted by the FOGS (Functioning of the GATT system) negotiating group in the Uruguay Round. Began on a trial basis during the Uruguay Round, the WTO reviews each country’s policies on a regular basis, once every two years in the case of the EU, the USA, Japan and Canada, every four years in the case of next 16 biggest traders, and every six years in the case of others, except for the smallest and poorest developing countries where the interval may be longer.\textsuperscript{37} The TPRM purpose is to improve transparency, to create a greater understanding of the policies that countries are adopting and to assess their impact. All WTO members must undergo periodic scrutiny, each review containing reports by the country concerned and the WTO secretariat. The TPRM envisages the establishment of the Trade Policy Review Body (TPRB). In order to achieve full transparency, each member shall report regularly to the TPRB about the trade policies and practices pursued by it.

The review enables the TPRB to conduct a collective examination of the full range of trade policies and practices of each WTO member countries at regular periodic intervals to monitor significant trends and developments, which may have impact on the global trading system. Two separate documents are prepared for each review, a policy statement by the government of the member under review, and a detailed report written independently by the WTO secretariat.
The two documents are then discussed by the WTO full membership in the Trade Policy Review Body (TPRB).³⁸

### 2.8 The Plurilateral Agreement:

The Plurilateral Trade Agreements consist of the Agreement on Trade in Civil Aircraft, Agreement on Government Procurement, International Dairy Agreements and International Bovine Meat Agreement. The first agreement was signed at Geneva in April, 1979. It was subsequently modified, rectified and amended. The later three agreements were done at Marrakesh on April 15, 1994, which was not signed by all members³⁹.

One of the purpose of the plurilateral agreement is to provide countries an outlet for their surplus output. This agreement may be conducted if a country wants access to a scarce material available in the other country.

There was an agreement to eliminate import duties on civil aircraft and the bulk of aircraft parts.

The Tokyo Round was responsible for the conclusion of an agreement on government procurement. This agreement is designed to facilitate wider membership of developing countries. It envisages consultations between the existing members and applicant governments. The government procurement negotiations had three objectives, i.e., to extend the coverage of the agreement to services (at present it covers only goods), to broaden the application of the agreement by bringing in sub-central level of government and central public utilities, and to improve the existing text of the agreement. It contained detailed rules on the way in which tenders could be invited and awarded.

In the field of agricultural products, the Tokyo Round of trade negotiations arrived at two significant agreements namely, the agreement regarding Bovine Meat and the International Dairy Arrangement. Both these agreements aimed at expansion and liberalization of world trade in meat, live stock and dairy products. Two International bodies oversee these arrangements. The International Meat
Council looks after the arrangement regarding Bovine meat, where as the International Dairy Products Council over see the dairy arrangement.\(^{40}\)

2.9 India’s Response to the Acceptance of WTO:

The Government of India was one of the signatories to the proposed reform of the GATT, following the Uruguay Round discussions, culminating in Geneva on December 15, 1993. A special session of two days (29\(^{th}\) and 30\(^{th}\) March 1994) was called and the parliament discussed the matter of GATT- 1994.\(^{41}\) In parliamentary history never such an event has occurred when the whole opposition was avowedly on one side. Except for the party in power, everybody decried WTO and warned the government not to accept it. Ofcourse, everybody opposing, did not deter the government and they had gone ahead with the programme. On April 15, 1994, the Commerce Minister Sri Pranab Mukherjee signed the acceptance of WTO at Marrakesh in Morrocco.

There were some technical issues of trade involved in judging whether India should accept the WTO or not and what its options are. But the subject was not one of mere economics, but one involving a complex set of issues that fall in the arena of political economy. It has never happened since independence that politicians have shown so much of unity for a cause. Inside and outside parliament, politicians except the party in power, had vied with each other to condemn WTO. The government was campaigning very hard for mobilising support in parliament. Although it had requisite support in the Lok Sabha, it had problem in the Rajya Sabha. The basic issue in India was the same as in the US, namely the sovereign power of the parliament (or the congress). Many of the Indian MPs felt that the Tokyo Round was better for developing countries and the Uruguay Round was a great surrender to the developed countries. The conditional ties was that the new GATT-94 (that is WTO) will impose upon India, policies regarding agriculture and IPRs in particular and the novel provision of cross retaliation between quite unrelated sectors like goods, services, investment and patent rights were dangerous traps for the developing countries. It will only help
strengthen the position of the developed countries and their TNCs (Transnational Corporations) and retard the desired development of most of the developing countries. This would bring neo-colonialism through the back door. Thus, whether India should join the WTO or remain outside was the matter of hot discussions. Now we are going to present some view points put forwarded by Government, Politicians, Intellectuals, Public men, Medias etc. There were some people who were convinced of the desirability of India to accept WTO, while there were other who were more convinced to the negative aspects of WTO.

First of all, we are going to present the view point which were in favour of India’s acceptance of WTO.

In India, the Government, Congress Party and some Sympathisers and admires were in favour of WTO. These optimists were of the view that global competition would force us to develop strength and ability to compete and we are bound to gain from the liberalization, caused by WTO. As far as the Govt. of India is concerned, there was hardly anything, which could show that it was not fully in favour of being in the WTO. They had accepted WTO and their status was as a “Contracting Party” of WTO. At the sametime, specially the two ministers of the Central Govt., Pranab Mukherjee and Balram Jakhar had vaguely declared that things would never be permitted to go against the farmers.

Among the people who were convinced of the desirability of India to remain under the WTO, Prof. Khusro was optimistic about the outcome and consequences of GATT-1994. Khusro thought that the gains through WTO would be 80, if the losses are to be 20. For him, those who oppose WTO, are ignoring the long term interests of India’s international trade, investment and economic relations. On sovereignty question, he had opinion that all international issues would be settled through some marginal adjustment in the so-called sovereignty.

Similarly, the then Director General of the National Council of Applied Economic Research (NCAER), Prof. S.L.Rao, was of the view that, the WTO framework agreement, liberalizing trade in goods and services would provide a
good counter balance to developing regional trade groupings which might otherwise be inward looking and would create trade distorting consequences to the orderly growth of global trade.

In the same way, A.K.Bhattacharya\textsuperscript{45} said that, it can bring in its wake, more competitiveness, more employment and more faster industrial growth. It was also being claimed that, WTO was not going to impinge upon our sovereignty, economic and otherwise.

The media had also given great attention to the 8\textsuperscript{th} round of GATT negotiations, which led to the creation of WTO. We have tried to follow opinions expressed through the national media on WTO. As per the “Economic Times”, the agreement was a major step towards a free trade regime and the setting up of WTO should ensure greater discipline in following the rules. The round has also encouraged those outside GATT to seek entry, and this would enlarge the multilateral system. The role of the WTO will also depend on how effectively it can intervene in disputes, involving the more powerful economies. Despite the opposition’s rhetoric about opting out of GATT, it should be evident that this country’s interest are best served by multilateralism rather than negotiating bilateral agreements with much more powerful countries. For India, to exert any influence, it will need to build alliances with the members of the WTO\textsuperscript{46}.

Now we will put forward the views, which were against the WTO and explore the weaknesses of WTO.

In India, the whole “Opposition” right, left, and center all were emphatically opposed to it. They were against the acceptance of WTO and claimed that this dispensation would be disastrous to Indian interests. Politicians like Atal Behari Vajpai, L.K.Advani, Somnath Chatterjee had condemned WTO and they insisted that WTO was definitely against India’s interests. Among those intellectuals who were against WTO held steadfastly that this dispensation would harm our industries, big and small and medium, since we cannot face competition
from mighty multinationals with their formidable resources, technology and know-how.47

Among People who were more convinced of the negative aspects of WTO, S.P. Shukla48, Stated that, “the new system will provide a built in, coercive mechanism of cross retaliation through which the major powers will be able to intrude into and occupy such economic space in the third world”.

Harish Chandra49, in the “Indian Express”, said that the most dangerous outcome of the Uruguay Package will be the dispute settlement mechanism. Cross-sector “Conditionality” could be really torture some and most unfair. In the same way, Muchkund Dubey, had opinion on all major issues and he was in disagreement almost entirely on all issues. He did not see any advantage for India from any of the measures envisaged, TRIPs, TRIMs, GATS, and measures with regard to agriculture.50

Raman Nanda51, was of the view that, in multilateral negotiations, no country could have its way if it is in a minority. And this seems to have been the case for India. Whatever unity was displaced by the developing countries in mid 80s in resisting the developed countries, attempts to push intellectual property rights, trade in services and trade related investment measures, vanished subsequently in the face of BOP problems that many developing countries found themselves in.

Similarly, in a report made by a people’s commission, consisted of Justices, V.R. Krishna. Iyer, D.A. Desai, O. Chinappa Reddy (former judges of the supreme court) and Justice Rajinder Sachar (formerly of Delhi High Court), these judges said that the acceptance of the Draft Final Text (DFT) of the treaty would not only impair India’s capacity to exercise its sovereign power, but would also restrict the power of the state to intervene for the benefit of the Indian people.

However gradually an unanimity began emerging in favour of India’s association with WTO. And with an ever larger number of developing countries opting for economic reforms and globalisation of their economies, it was
considered non-prudent and reckless course of isolation in a more integrated and fiercely competitive world. Since GATT-1994 is not going to permit any restrictions on trade, neither tariff nor non-tariff barriers, exports and imports, both would be encouraged. Free international trade is good by many considerations, but the good of it would be shared by all the signatories of the WTO, according to their contribution to the international trade. As the ill luck has it to date, India’s share has hardly exceeded a paltry .5 and in contrast, there are many smaller countries which have much greater share in world trade. The transmission from GATT to WTO is a crucial economic development. Not to take full advantage, this could be only slightly less damaging than walking out of the new world system altogether. Much depends on how far the powerful trading nations would allow this development. We would get advantage only from our efficiency, our production and excellence. There are no short cuts to development and to a gainful international trade. But one thing is certain. The excitement over the new multilateral trade framework has not yet ended. Infact, it has just begun.

Now all the parties Left, Right, Center have consensus and unanimity on WTO. They are agree with the India’s adherence to WTO.
References


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23. Ibid., pp. 108-117.

24. Ibid., pp. 118-121.

25. Ibid., pp. 88-93.


43. Op Cit., Sharma, A.D. & Geetika, Pg. 48.