

INTERNATIONAL BUSINESS AND TRADE

UNIT-3

PART-IV

World Trade Organization (WTO):

The WTO, the legal and institutional foundation of multilateral trading system, was established on 1 January, 1995 by Marrakesh Agreement signed at Marrakesh, Morocco, on 15 April, 1995. It is the organization that succeeded the GATT.

Negotiated in 1947, GATT came into force as an interim arrangement on 1 January, 1998. Originally, it had only 23 signatories – members of the preparatory committee set up to detail guidelines for the then intended International Trade Organization which, however, never came into being. GATT remained the only world body laying down trade rules.

Eight rounds of negotiations were conducted under GATT to liberalize world trade and evolve a common code of conduct in world trade and trade relations between nations; between 1947 and 1993, tariffs were reduced from an industrial country average of 40 per cent to less than 5 per cent.

In December, 1993, there were 111 contracting parties and 22 other countries applying GATT rules on a de facto basis. The eighth round, the last called the Uruguay Round, was concluded on 15 December, 1993 by 117 countries accounting for about 90 per cent of international trade. The largest ever agreement in history, known as the Final Act embodying the results of the Uruguay Round of multilateral trade negotiations, was signed on 15 April, 1994 in Marrakesh, by trade ministers of 123 countries.

The agreement, in the main, called for the creation of the WTO, with annexes stating terms of the understanding reached in agriculture, intellectual property rights, goods, services, market access and technical issues such as subsidies, dispute settlement and import licensing procedures; subsequently, the WTO came into being on 1 January, 1995. GATT was formally dissolved only at the end of 1995. The Marrakesh agreement gave until December, 1996 for the contracting parties to GATT to join the new organization as original members.

The WTO came into existence “to administer some 30 agreements (covering a wide variety of matters – ranging from agriculture to textiles, and from services to government procurement to intellectual property) contained in the Final Act of the Uruguay Round of GATT; to provide conciliation mechanisms to resolve trade conflicts between members, and, of necessary adjudicate disputes, and to provide a forum for ongoing negotiations in pursuance of further lowering and/or elimination of tariffs and other trade barriers”. The headquarters is at Geneva, Switzerland. There were 132 member countries by the end of 2000.

The WTO succeeded GATT with stronger powers and procedures. It encompassed GATT, as modified by the Uruguay Round, all agreements and arrangements concluded under GATT auspices and the complete results of the Uruguay Round. While GATT was only a treaty, the WTO is a definitive world organization. The WTO was to take on from where GATT left off, that is, to complete the undertakings of the Uruguay Round. All provisions of the Uruguay Pact were to become part of global law by 1 December, 2004.

All members of the WTO subscribe to all multilateral agreements (the single undertaking). However, four agreements, negotiated at the Tokyo Round and known as ‘plurilateral agreement’ are binding only on those countries which accept them. These agreements deal with trade in civil aircraft, government procurement, dairy products and bovine meat.

The main objective of the WTO is the globalization of world trade. Member countries are required to apply fair trade rules covering commodities, services and intellectual property. The Uruguay Round also commits the members to lowering of tariffs on industrial goods, abolition of import duties on a variety of items, progressive abolition of quotas on garments and textiles, reduction of trade distorting subsidies and import barriers, agreements on intellectual property and rules for civil aviation, telecommunications, financial services and the movement of labour.

The WTO also encourages development and economic reform among the increasing number of developing countries and countries with economies-in-transition participating in the international trading system. The WTO operates a limited number of technical assistance programmes, related to training and information technology. The WTO has also recognized the need to protect the environment and to promote sustainable development.

The principal organs of the WTO are the Ministerial Council, the General Council, the Trade Policy Review Body, the Dispute Settlement Body, the Appellate Body, the Council on Trade in Goods, the Council on Trade in Services, the Council on Trade – Related Aspects of Intellectual Property Rights and a Secretariat.

The Ministerial Council is the supreme organ of the WTO, consisting of the representatives of all the member-states. It is the highest decisions-making body and meets at least once every two years to take decisions on all matters under any of the multilateral trade agreements.

The General Council is composed of delegates from all the member-states and is responsible for conducting the day-to-day work of the WTO. It supervises the operation of all agreements, oversees ministerial delegation at regular intervals and reports to the ministerial council. The General Council also convenes in two particular forms – as the Dispute Settlement Body (DSB) to oversee the trade dispute settlement procedure and as the Trade Policy Review Body (TPRB) to conduct regular reviews of the trade policies of WTO members.

The DSB deals with disputes between countries. Before cases are heard by the Dispute Panel, there is a 60-day consultation period. Appeals against the verdict of the DSB are heard by a seven-member Appellate Body sitting for 60 days a year. Each appeal is heard by three of the Appellate Body members. The decisions of the Appellate Body are binding and refusal to comply at this stage leads to trade sanctions.

The General Council delegates responsibility to three other sectoral councils: Council for Trade-Related Aspects of Intellectual Property Rights, Council for Trade in Goods and Councils for Trade in Services. All these councils are open to the participation of all WTO members and meet whenever required.

The Secretariat is headed by a Director General for a four-year term. The WTO is mandated to pursue cooperation with the IMF and World Bank and other multilateral organizations in order to achieve greater coherence in global policy-making. It cooperates with UNCTAD in research, trade and technical issues. The first ministerial conference of the WTO was held in Singapore in December, 1996 to assess the implementation of the UR commitments, review the ongoing negotiations and work programme, examine the developments in world trade and address the challenges of an evolving world economy.

The conference was, to a large extent, polarized between the interests of industrialized world and those of the developing world. The four major and contentious issues discussed were core labour standards, a multilateral investment agreement, competition policy and government procurement. On the core labour law issues the conference rejected the suggestion of the developed nation to link core labour laws with trade. The final ministerial declaration called for a closer interaction between the ILO and WTO. On the investment and competition policies,

the developing countries had to agree to incorporate policies into the 'built-in' agenda under article of the agreement on TRIMS.

Now discussions on investment would be included within the framework of the WTO. The declaration on the issue read: "We agree to establish a working group to examine the relationship between trade and investments, and establish a working group to study issues raised by members relating to the interaction between trade and competition policy, including anti-competitive practices, in order to identify any area that may merit further consideration in the WTO agreement". On the issue of government procurement, it was agreed to establish a working group to conduct a study on transparency in government practices, taking into account national policies, and based on this study, to develop elements for inclusion in an appropriate agreement.

The second ministerial conference of the WTO was held in Geneva in May 1998. The declaration at the end of the conference gave the go-ahead signal for the preparations to negotiate the 'built in' agenda covering global trade on agriculture and services as well as review and/or renegotiate some of the clauses of the Marrakesh Agreement (UR). It was agreed that the WTO should discuss the difficulties that developing countries have been facing in the implementation of the Marrakesh Agreement. This had been a counter-proposal of the developing countries to the agenda of the advanced nations to push on with liberalization.

The idea was to review and possibly renegotiate certain clauses, particularly those relating to patents, foreign investment measures, technical barriers to trade and freeing trade in textiles. The trade ministers also agreed that the officials of the WTO member countries will examine the recommendations of the committees studying the links between foreign investment and trade, between competition policies (i.e., government rules on business practices) and trade and the issues in government procurement.

This was a new battleground since some of the industrial countries are keen on global treaties on foreign investment, while many of the developing countries are not. Therefore, while there was no pact as such in this declaration, the many elements on which it was decided to begin preparatory work added to a fairly ambitious and far-reaching agenda.

The third ministerial conference of the WTO was held at Seattle, USA from 30 November to 3 December, 1999. The conference assumed importance and attracted wide publicity because of the efforts by a large number of member countries to seek an endorsement from the conference for the launch of a comprehensive round of negotiations, covering a wide range of subjects,

including proposals to introduce regimes on investment, competition policy, transparency in government procurement, trade facilitation, trade and labour standards and trade and environment.

There was also a move to get the conference to endorse a fresh round of industrial tariff negotiations; strengthen the 'coherence' between the working of the WTO and other international organizations; introduce involvement of NGOs in the functioning of the WTO dispute settlement mechanism, besides permitting the submission of amicus curiae briefs; and extend the duty standstill on electronic commerce, agreed to at the Geneva Ministerial Conference (1998).

The developing world highlighted its concerns arising out of the imbalances in several of the WTO agreements, including those related to anti-dumping, subsidies, intellectual property, trade related investment measures, and the non-realization of benefits to the extent expected from agreements such as those on textiles and agriculture.

The developing world also emphasized the necessity of operationalizing the special and differential treatment clauses in the WTO agreement and brought out the difficulties faced through the increase in anti-dumping and anti-subsidy investigations in the areas where the developing countries have begun to acquire trade competitiveness. The inclusion of non-trade issues like labour standards and linking trade with environment was also vehemently opposed. No consensus-based conclusions could be reached on most of the issues before the third ministerial conference, and the work of this conference was suspended.

The fourth ministerial conference held in December 2001, at Doha, ended with a set of declarations that it indicated agreement among 144 member nations. But the Doha also failed to answer a number of questions it generated.

The issues which literally failed to find transparent solutions were: first, opaqueness of the declaration and its persistent bias in favour of diplomatically powerful ones; the degree to which the inequalities were redressed.

The developed world believes that there is a need for more areas to be brought under global trade rules. These negotiations were also discussed at Seattle, but could not take place because of lack of agreement over the issues, especially due to blatant opposition it faced from the developing world.

The three declarations that have come out of Doha are:

- (i) The Doha Development Agenda for what is in essence a new round of trade talks;
- (ii) The declaration on a set of implementation issues raised by the developing countries; and
- (iii) A political statement on the patents and public health.

The ministerial conference decided on around 40 implementation issues including agriculture and services, industrial tariffs, antidumping duties, and certain aspects of trade and environment that would be considered by the relevant WTO bodies whose main task would be to launch fresh negotiations. These negotiations would also consider issues like investment, competition, government procurement and measures facilitating trade. The core labour standards have been referred to the ILO.

With regard to patents and public health, the Ministerial made a separate declaration clarifying that countries could license their domestic producers to manufacture patented drugs in the case of endemic. Apart from this, the transitional period to introduce the new drug patent regime was extended, but only for LDCs, excluding India.

The 5th ministerial conference held at the Cancun, the Mexican city on 10 September, 2003, amidst protest by the anti-globalization activists, was also a failure. This conference was held mainly to review the progress of the Doha round and Singapore issues. The developing nations found agriculture and Singapore issues as two most contentious issues. The developed nations were adamant regarding the issues of firm subsidies (which are abnormally high) and also demanded greater market access of their agriculture into developing countries.

They, therefore, asked for absolute equality of opening of markets in developing nations on equal terms in place of the relative equality because of the historical and cultural reasons of differences between the developed and developing nations. However, this conference had one positive outcome in the form of the solidarity expressed by the developing countries for protecting their interest unitedly despite the pressure exerted by the developed nations. The role of G-20 in placing the aspirations of the people of the developing countries depended on agriculture for livelihood, was praiseworthy.

This 6th ministerial conference was held in 2005(December 13th to 18th) at Hong Kong, primarily to complete the Doha work programme and to establish modalities in agriculture and non-agricultural market access (NAMA). It also discussed about elimination of trade distorting subsidies. However, this conference also did not achieve any conclusive result due to the divergent views and the stand taken by the both developed as well as developing nations on

various issues especially related USA and other developed nations continual of trade distorting subsidies in form of orange box, blue box and green box.

Therefore, it can be stated that though globalization of economy is undergoing a change in each and every part of the world, certain contentious issues are yet to be resolved. However, probably for the first time in the history of international/global trade, the developing/underdeveloped nations are not the mute spectators but the active participants and constructors in determining, designing and formulating the phases and the various process of globalization.

In many global trade issues so far, there has been unanimity among the emerging economic power of developing nations such as among India, Brazil, China and South Africa, but how long such thing will persist is one of the debatable issues due to other political and diplomatic reasons.

Moreover, urges and aspirations of the poorest nations are yet to be addressed by the international community for the sustainable development of their economy and quality of life of their people on one hand and protection of environment and sustenance of peace on the other hand. On account of moral ground for historical reasons and ongoing exploitations of their natural resources, international community must look beyond donations and grants as those are rather appropriated by the influential sections of their respective nations and are also not conducive for permanent solutions, but for social transformation and development on sustainable basis.

For achieving that, the developed nations should make constructive initiatives and non-hesitantly, take a pain of small sacrifices of their own pleasure with pride and dignity. Influential emerging economies of the developing nations should also do the same on the basis of their capabilities. India, one of the emerging economies, has started taking number of such initiatives with regard to networking of African nations for E-education, E-medicines etc., reconstruction of Afghanistan and so on, which must inspire other nations. India herself faces lot of socio-economic problems.

Yet it dares to contribute with a big heart for the sake of universal fraternity. That does not mean other nations do not do so. But such steps are very much limited. It should evolve comprehensive packages for such poor nations for attaining strength on sustainable basis and leading towards social transformation and development.

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