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# UNIT-18      MULTILATERAL      TRADING SYSTEM

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## Structure

- 18.0 Objectives
- 18.1 Introduction
- 18.2 Establishment of the WTO
  - 18.2.1 Basic Differences between GATT and WTO
  - 18.2.2 Scope and Functions of the, WTO
  - 18.2.3 Structure of the WTO
- 18.3 Uruguay Round Agreements
- 18.4 Multilateral Trade Agreements
  - 18.4.1 Agriculture
  - 18.4.2 Sanitary and Phytosanitary Measures
  - 18.4.3 Textiles and Clothing
  - 18.4.4 Technical Barriers to Trade
  - 18.4.5 Trade-Related Investment Measures (TRIMs) 10.4.6 Anti-Dumping
  - 18.4.7 Customs Valuation
  - 18.4.8 Pre-Shipment Inspection
  - 18.4.9 Rules of Origin
  - 18.4.10 Import Licensing Procedures
  - 18.4.11 Subsidies and Countervailing Measures
  - 18.4.12 Safeguards
  - 18.4.13 General Agreement on Trade in Services (CATS)
  - 18.4.14 Trade Related Intellectual Property (TRIPS)
  - 18.4.15 Dispute Settlement
  - 18.4.16 Trade Policy Review Mechanism (TPRM)
- 18.5 Plurilateral Trade Agreements
  - 18.5.1 Public Procurement
  - 18.5.2 Trade in Civil Aircraft
  - 18.5.3 International Dairy Products
  - 18.5.4 International Bovine and Meat Products
- 18.6 India and the WTO
- 18.7 Let Us Sum Up
- 18.8 Key Words
- 18.9 Answers to Check Your Progress
- 18.10 Terminal Questions

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## 18.0 OBJECTIVES

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After going through this unit, you should be able to:

- explain the functions and structure of WTO
- enumerate the achievements of the Uruguay Round
- analyse various multilateral trade agreements

- describe various plurilateral trade agreements
- explain India's position in relation to the WTO.

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## **18.1 INTRODUCTION**

General Agreement on Tariffs and Trade (GATT) was founded in 1947 with 23 members. It was a multilateral arrangement with a mandate to oversee international trade in goods and bring about orderly growth in global trade by means of progressive reduction in tariff and non-tariff barriers. The furthering of trade liberalisation was to be achieved by negotiations among various GATT contracting parties on a regular basis. In all, there were eight GATT Rounds, including the Uruguay Round. In this unit, you will learn about the World Trade Organisation, various agreements under the Uruguay round and India's position in relation to WTO.

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## **18.2 ESTABLISHMENT OF THE WTO**

Despite overseeing a ninefold increase in world trade between 1947 and 1985, it was clear by the mid-1980s that a major review and modernisation of GATT was required in order to enable it continue to successfully regulate the global market in the 21st century. Ultimately, it was in the last Round that initiatives for a new regulatory organisation — the World Trade Organisation (WTO) were taken. Before we go into the details of the agreements entered into in the Uruguay Round, let us first learn the basic differences between GATT and WTO and the structure and functions of the WTO.

### **18.2.1 Basic Differences between GATT and WTO**

There are six major differences between GATT and the WTO

1. Whereas the GATT framework allowed for the existence of a number of important side agreements negotiated and concluded by certain GATT contracting parties in the framework of the various GATT Rounds, the WTO administers a unified package of agreements to which all members are committed (i.e., the Uruguay Round Agreement now forms an integral part of the WTO),
2. The WTO has considerably expanded the role of GATT by including Trade in Services and Intellectual Property Rights (IPR) within the multilateral trading system. In addition, environment becomes a major agenda item for the first time;
3. The WTO contains an improved version of the original GATT rules - GATT 1994, which restate and strengthen the original GATT rules concerning trade in goods;
4. GATT trade opt-out agreements, such as those governing the clothing and textiles and agriculture sectors are to be gradually overturned and the so-called 'grey area' measures including voluntary arrangements and export restraints are to be phased out. Virtually, all trade in goods will from now on be subject to GATT/WTO rules;
5. The potential membership of the WTO of some 150 countries is far wider than under the GATT. This fact undoubtedly serves to strengthen the arm of the WTO; and
6. WTO members cannot block decisions arrived at under the dispute settlement mechanism. Under the GATT, dispute panel findings were often blocked.

### **18.2.2 Scope and Functions of the WTO**

The WTO is designed to provide a common institutional framework for the conduct of trade relations amongst its members relating to the Multilateral and Plurilateral Agreements arising from the Uruguay Round.

The Multilateral Agreements are binding on all Members of the WTO. The Plurilateral Agreements, whilst administered by the WTO, are only binding on their signatories.

#### **Functions**

The most important function-of the WTO is to implement, administer, direct and further the objectives of the Multilateral and Plurilateral Trade Agreements resulting from the Uruguay Round. To achieve these ends, the WTO will:

1. provide a forum for further trade liberalisation negotiations arising from the Multilateral and Plurilateral Agreements;
2. administer the new Dispute Settlement Procedure in such a manner as to regulate and ensure Members' compliance with the agreements;
3. establish and direct a Trade Policy Review Mechanism to study the trade policies of Members;
4. co-operate fully, and on an equal footing, with the International Monetary Fund and the World Bank for the furtherance of policy-making; and
5. research and produce both specialised and general economic reports of international interest.

The central role of the WTO is the continued pursuit of assured, effective market access -worldwide - for traders, investors and inventors. That is and will remain the central objective. And while regional activities around the world, whether in Asia, Europe or the Americas, can and do contribute to trade liberalisation, the main tool for achieving that objective will be multilateral action. Bilateral approaches may achieve quicker results sometimes and, as Europe has shown itself in the internal market programme, regional initiatives can be the starting point for genuine worldwide liberalisation in new sectors. But many of the most serious problems our traders face today can only be tackled if all major trading partners act together — the WTO is and must remain the motor of worldwide liberalisation.

The establishment of the WTO has brought the GATT Rounds to an end. In the future, discussions about the liberalisation of trade will be ongoing, under the day to day direction of the General Council of the WTO. Major policy decisions will then be adopted at the Ministerial Conference — the top tier of the WTO — every two years. A new negotiation Round may, however, be necessary if the broadening of the WTO to cover such areas as labour standards, environment and competition is deemed desirable.

The setting up of the WTO should, in time, permit a greater degree of liberalisation of trade: than under the GAIT Round system of negotiations and with less of the accompanying trauma. The General Council, its sub-Councils and Committees will be permanently engaged in monitoring and rendering effective the Uruguay Round Trade Agreements. As part of their function, they will discuss ways of further improving world trade. Although the General Council cannot itself take major policy decisions, it can discuss and instigate, discussion about them. The advantage of this continuous negotiating forum is that by the time the Ministerial Conference takes place (every two years), many ideas for liberalising trade will already have been thoroughly debated and a consensus agreed. These strengthened WTO structures will make it easier for final decisions to be made at the Ministerial Conference itself. It was precisely this lack of advance planning and consensus that caused the later GAIT rounds to become increasingly tied down and contentious.

### **18.2.3 Structure of the WTO**

The Ministerial Conference is the top tier of the WTO framework. It is scheduled to meet every two years, with the first meeting held in Singapore in December 1996. The Ministerial Conference consists of a representative from each Member and has full authority to take decisions on any matter arising from the Multilateral Trade Agreements. It is the chief policy-making body of the WTO and any major policy changes, such as a decision to alter competition policy or to rewrite the WTO Agreement, require its approval. The General Council is responsible for overseeing the WTO between Ministerial Conference meetings and consists of a representative from each Member. It has authority to act in all areas pertaining to the Multilateral and Plurilateral Trade Agreements and the WTO, save for the making of major policy changes or decisions to alter the WTO constitution Where Ministerial Conference approval is required, the General Council is not free to initiate discussion for change and carry out all the necessary preparatory work but if no such approval is necessary, the General Council can initiate discussion and do preparatory work.

The principal functions of the General Council are

- i) to act as a Dispute Settlement Body under the Terms of Understanding on Rules and Procedures Governing the Settlement of Disputes;
- ii) to administer the Trade Policy Review Mechanism (TPRM); and
- iii) to supervise and ensure the smooth running of the Councils for Trade in Goods, Services and Trade-Related Aspects of Intellectual Property Rights as well as all Trade Committees, including those established under the Ministerial Conference.

The General Council is designated to meet 'as appropriate' but in practice, this means once every six to eight weeks. Members can choose who they wish to represent them but generally, for most countries, the representatives are the ambassadors (for smaller and/or developing Members) and first secretaries or heads of mission (for those members which maintain a permanent diplomatic representation mission for WTO matters in Geneva). Where important decisions need to be made, it is normal practice for ambassadors to be requested to attend. It is customary for larger members to have a specific ambassador to the WTO.

For the day to day running of the WTO, the General Council delegates responsibility to three major bodies:

- i) the Council for Trade in Goods;
- ii) the Council for Trade in Services;
- iii) the Council for Trade-Related Aspects of Intellectual Property Rights.

These Councils, in rum, oversee various Committees relating to their own particular sector of the Uruguay Round Multilateral Trade Agreements.

The General Council, however, retains overall responsibility for the above-mentioned Councils and their Committees as well as for the four Committees established by the Ministerial Conference and the Committee arising out of the Plurilateral Trade Agreements. It has the authority to vary the procedure of the Trade Councils mentioned above; and, if necessary, to replace the Chairmen of both the Councils and Committee. It should be borne in mind that all such decisions of the General Council are made by consensus.

### Check Your progress A

- 1) Write two differences between GATT & WTO.

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- 2) Write three functions of WTO.

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- 3) What is the central role of WTO.

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### 18.3 URUGUAY ROUND AGREEMENTS

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Before we discuss the agreements under the Uruguay Round, let us first discuss the goals set for the Round.

**Major Goals of the Uruguay Round:** The major goals of the Uruguay Round were:

- 1. To achieve further liberalisation of trade by reducing tariffs and other barriers to trade;

2. To properly reflect the modern developments in world trade by including in GATT negotiations, for the first time, trade-related investment measures, trade in services and intellectual property rights protection;
3. To bring an end to exemptions of the GATT rules such as those granted to the agricultural, clothing and textiles sectors, and so resubmit them to GATT discipline;
4. To phase out all voluntary export restraint arrangements or VERs (prevalent in industries such as steel, electrical goods and motor vehicles) whereby one country agreed to limit its exports to another country to a pre-set level. Compliance of such arrangements with GATT has always been long tolerated by GAIT due to the economic and social significance of the sectors concerned. and
5. To improve and strengthen the GATT dispute settlement procedure in order to ensure application of GATT rules and thus render it effective and credible

The final Uruguay Round Agreement comes to some 600 pages, with an additional 25,000 pages of national tariff and services schedules. Eighteen separate agreements are described to these pages. Fourteen of the agreements are multilateral and four are plurilateral. The multilateral agreements are binding on all Members of the WTO (countries which are signatories to the WTO are known as Members; previously GATT signatories were known as Contracting Parties, whereas the plurilateral agreements, although administered by the WTO, are binding only between their signatories. Look at Table 18.1 which shows various multilateral and plurilateral agreements.

**Table 18.1: Uruguay Round Agreements**

| <b>Multilateral</b>                               | <b>Plurilateral</b>             |
|---|---------------------------------|
| 1. Agriculture                                    | 1. Public Procurement           |
| 2. Sanitary and Phytosanitary Measures            | 2. Trade in Civil Aircraft      |
| 3. Textiles and Clothing                          | 3. International Dairy Products |
| 4. Technical Barriers to Trade                    | 4. International Bovine Meat    |
| 5. Trade Related Investment Measures (TRIMS)      |                                 |
| 6. Anti-dumping                                   |                                 |
| 7. Customs Valuation                              |                                 |
| 8. Pre-shipment Inspections                       |                                 |
| 9. Rules of Origin                                |                                 |
| 10. Import Licensing Procedures                   |                                 |
| 11. Subsidies and Countervailing Measures         |                                 |
| 12. Safeguards                                    |                                 |
| 13. General Agreement on Trade in Services (GATS) |                                 |
| 14. Trade Related Intellectual Property (TRIPS)   |                                 |
| 15. Dispute Settlement                            |                                 |
| 16. Trade Policy Review Mechanism (TPRM)          |                                 |

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## 18.4 MULTILATERAL TRADE AGREEMENTS

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Let us now study each agreement in detail. First, we will deal with multilateral trade agreements.

### 18.4.1 Agriculture

Agriculture has traditionally been one of the most contentious areas of world trade. Prior to the Uruguay Round, it was subject to a series of agreements that effectively put it outside the GATT sphere of influence. The sector proved to be the most difficult to negotiate during the Uruguay Round. Indeed, the unwillingness of major developed nations such as the United States of America and the European Union to make concessions almost led to its collapse. In the end, intensive negotiations, common sense and considerable pressure (from the Australian led CAIRNS Group of agricultural products exporting countries) led to an agreement which significantly liberalised agricultural trade. The main agreement, which includes the establishment of a Committee on Agriculture can be divided into three sections:

- i) market access;
- ii) domestic support; and
- iii) export subsidies.

Each is discussed in greater detail below:

**Market Access:** The following major changes to the system of rules governing market access, have been agreed (it should be noted that only GATT' contracting parties benefit from these changes; new signatories to the WTO do not):

- All measures directly affecting imports of agricultural products other than customs duties (for example, agricultural levies) are to be converted into customs duties (tariffication).
- Tariffs arising from the new tariffication process along with other tariffs on agricultural products are to be reduced by an average of (i) 36% in six years from 1995 for developed countries; (ii) 24% in ten years from 1995 for developing countries. No reduction is required in the case of the least developed countries.
- A special safeguard clause permits a country under strictly defined conditions, to maintain import restrictions to the end of the six or ten year implementation period.
- For those products for which few or no imports took place as a result of the restrictive nature of the pre-existing regime, minimum access opportunity commitments have been made, representing not less than 3% of domestic consumption in the base period 1986–88, rising to 5% of that base figure by the end of the various implementation periods.

**Domestic support:** Members have made an undertaking to cut the overall level of internal market support (i.e, national schemes for maintaining domestic prices at high levels and/or direct subsidies) to farmers by the following amounts:

- developed countries - 20% over six years;
- less developed countries - 20% over ten years; and
- least developed countries - no change.

So-called 'Green Box' policies are excluded from the undertaking. Green Box policies include general government services (such as research, infrastructure, food safety and disease control) as well as direct payments to producers in the form of special income support, structural adjustment assistance, direct payments under environmental programmes and regional assistance programmes.

**Reductions in Export Subsidies:** The level of direct export subsidies is to be reduced as follows:

- developed countries - to a level of 36% below that of the 1986-90 base over six years;
- less developed countries - as per the developed countries but over ten years; and
- least developed countries - no change.

#### **18.4.2 Sanitary and Phytosanitary Measures**

Although sanitary and phytosanitary measures have been generally covered by GATT since 1947, whether under GATT's own Articles (particularly xx:b) or as a result of other trade agreements (i.e. the Tokyo Round Agreement on Technical Barriers to Trade), there has never been a specific sector agreement until now. However, this left governments concerned to increasingly use, without specific regulation of the-sanitary and phytosanitary sector, sanitary and phytosanitary measures as a disguised, but deliberate means of restricting trade. The new Uruguay Round Agreement in this area tackles this risk on internationally recognised standards, where they exist;

- the introduction or maintenance of higher standards by Member States can be justified on scientific grounds or other Member States wheedrets where appropriate risk assessment procedures have been followed. A dispute procedure e feel that higher standards are being used as an excuse for market protection;
- an obligation of transparency has been established - Member States must publish all sanitary and phytosanitary measures taken; and
- a Committee on Sanitary and Phytosanitary Measures has been established to monitor the Agreement.

#### **18.4.3 Textiles and Clothing**

As with agriculture, the textile and clothing sector has proved to be a major source of discord over the years between the developed and less developed countries. The 1974 Multi-Fibre Arrangement (MFA) had effectively removed textiles and clothing from the GATT framework, to the often considerable disadvantage of the least developed trading nations. The Uruguay Round negotiations have succeeded in returning the clothing and textile sector to the GATT fold. The following has been agreed to:

- i) MFA and non-MFA restrictions (i.e. those not negotiated in the framework of GATT) are to be phased out in four stages, with fixed percentages of products to be integrated at each stage. The first stage to become operational on 1st January 1995 required Member States to immediately integrate into GATT no Tess than



16% of their 1990 total volume of imports of textiles and clothing. The second stage beginning on 1st January 1998 was to see the integration of a further 17% of products, with an additional 18% on 1st January 2002 and the remaining 49% on 1st January 2005.

- ii) during the course of the phasing out process, these products which still remain subject to restrictions are to benefit from fixed rates of growth in their quota levels. During the first phase (January 1995 — December 1997) the annual growth of each quantitative restriction still in force will be no less than 16 per cent. In the second phase (January 1998 - December 2001) the quantitative restrictions will be increased by a further 25 % with an additional increase of 27% in the third phase (January 2002 - December 2004); and
- iii) safeguards will be available to those countries whose domestic industries may suffer in the short-term as a consequence of the removal of restrictions. The safeguards can be agreed bilaterally or imposed unilaterally but must not reduce the volume of trade below the actual level of exports or imports from the country concerned during the previous twelve month period. However, they will be subject to strict monitoring by the Textiles Monitoring Body and will, in any event, only be available for a maximum three years period.

As per the agreed time-table, the MFA was phased out totally by 31st December, 2004 and, with effect from 01 January, 2005, international trade in textiles was brought under WTO Framework.

#### **18.4.4 Technical Barriers to Trade**

The Agreement on Technical Barriers to Trade strengthens and clarifies a previous agreement reached during the Tokyo Round. The new agreement accepts that all countries have the right to introduce such regulations and standards as they consider necessary in order to ensure health and safety and to protect the environment. It is, however, also important to ensure that technical regulations do not in reality create unnecessary barriers to trade. The new agreement, which covers all products, including industrial and agricultural products:

- i) requires Members who are preparing, adopting or applying a technical regulation which may significantly affect the trade of other Members to justify the regulation upon request from affected Members;
- ii) encourages Members to cooperate (with a view to harmonisation on as wide a basis as possible) in the preparation by international standardising bodies of international standards for products for which they have adopted, or expect to adopt technical regulations;
- iii) states that Members should try to accept equivalent technical regulations of other Members, even when they differ, in cases where those regulations effectively fulfil the objectives set out in their own regulations;
- iv) stipulates that wherever appropriate Members should specify technical regulations based on product requirements in terms of - to design or descriptive characteristics; of Performance as opposed
- v) provides a notification Procedure where no relevant imitational standard exists or where a proposed technical regulation does not accord with international MI where regulation may have a significant effect on trade of other Members. In particular, the procedure states that Members should:

- a) publish well in advance a notice of the re proposed technical regulation:
  - b) notify other Members (through the WTO Secretariat) of the products covered by the regulation, as well as an indication of its objective;
  - c) provide copies of the proposed regulation to other Members on request. identifying the elements of the regulation that vary from international standards;
  - d) allow, time for written comments to be made by other Members and take regulation: and into. account these and any discussions held before finalising the
  - e) promptly make the newly adopted regulation available to other Members or interested parties.
- vi) introduces a Code of Good Practice for the Preparation. Adoption and Application of Standards, comprising all the above mentioned points. According to the Code. Members must ensure that their central government standardising bodies covered by this Code:
- a) publish a work programme every six months containing their names and addresses and the standards they are currently preparing or have adopted in the preceding period; and
  - b) lodge their work programme with the IEC (International Electrotechnical Commission) Information Centre in Geneva.
- vii) establishes a Committee on Technical Butlers to Trade.

#### **18.4.5 Trade Related Investment Measures (TRIMs)**

Foreign Direct Investment (FDI) is a significant area of growth in the global economy and is of particular interest to the developed countries, though developing countries increasingly involving themselves in FDI. During 2004, for instance, developed countries accounted for 58.6% and 873% respectively, of global FDI inflows and outflows and the developing countries for 36% and 11.4%. It is as a result of the involvement and interest of a large number of countries in FDI that TRIMs were included, for the first time, in the Uruguay Round of negotiations.

Whilst not aimed at protecting and establishing multilateral rules on FDI, the new agreement nevertheless recognises that certain national measures attach conditions on FDI which result in a restriction and distortion of trade. The TRIMs agreement, therefore, sets out to clarify what measures are or are not permissible. It includes a long list of prohibited measures such as those which require particular levels of local procurement by an enterprise or which restrict the volume or value of imports that such an enterprise can make.

In general, the following are listed as prohibited in TRIMs:

- i) requirements to purchase from domestic sources;
- ii) limitations on the purchase or use of imported products tied to the volume or value of local products exported: .
- iii) restrictions on importation whether or not tied up the volume or value of 10, production exported; and - restrictions on exportation or sale for export

The TRIMs agreement increases transparency by requiring the notification of all existing prohibited measures to the WTO Secretariat. It further requires that these measures be removed within the following time scales:

developed countries - two years

developing countries - five years

least developed countries - seven years

In addition, a Committee on TRIMs is to be established. Its responsibilities will include the monitoring and implementation of the above commitments.

### **18.4.6 Anti-dumping**

Anti-dumping measures are frequently used and are highly contentious. Although GATT provided for the right of its contracting parties to impose such measures, its provisions are frequently criticised as lacking the clarity required to prevent evasion and abuse of the rules. The new agreement seeks to remedy this situation. Significant changes include:

- i) acceptance of the principle that firms, may under certain conditions, during their start-up period, sell up to 20% of their production at a loss;
- ii) clarification of the rules relating to anti-dumping procedures and the conduct of investigations. The new, rules largely reflect long-established practices;
- iii) introduction of a 'sunset' clause which will result in a five-yearly review of all anti-dumping actions;
- iv) inclusion of a 'de minimis' rule which will terminate anti-dumping actions against small volume imports or those that produce a negligible effect on trade;
- v) implementation of new rules relating to the tabling of complaints - complainants must, in most cases, represent a majority of domestic producers in the relevant market. In certain circumstances, complainants representing 75% to 50% of the market may table complaints; and
- vi) establishment of a Committee on Anti-Dumping Practices.

### **18.4.7 Customs Valuation**

Customs valuation is a complex component of the world trade system and one that has proved particularly susceptible to fraudulent practices. The new agreement represents a strengthened version of the Tokyo Round's first attempt to regulate this aspect of trade. The agreement:

- i) re-emphasises that the basis for valuation of goods for customs purposes should, to the maximum extent possible, be the transaction value of the goods being valued;
- ii) gives customs administrations:
  - a) additional powers to request further information from importers if they doubt the accuracy of the declared value of imported goods;
  - b) the right and obligation to establish the customs value by having recourse to alternative methods provided in the agreement. where, despite additional information, the customs administration still doubts the declared value of the goods;

- c) establishes a Committee on Customs Valuation to oversee the administration of the agreement

#### **18.4.8 Pre-shipment Inspection**

This involves the use of specialised private companies to check shipment details such as the price, quantity and quality of goods ordered overseas. They are used principally as a means of protecting the national interest (i.e. prevention of illegal movements of capital, commercial fraud, customs duty evasion) by the developing countries.

The agreement applies GATT principles and obligations, in particular, those of nondiscrimination and transparency to the carrying out of pre-shipment inspections mandated by governments. An independent review procedure to resolve disputes between pre-shipment agencies and exporters is to be established.

The procedure will be administered by an independent body consisting of a combination of separate organisations representing exporters and agencies. At the request of a complainant (exporter or agency), the independent agency will establish a panel of experts from an existing list. The panel will consist of three experts, one each nominated by the individual organisations representing exporters and agencies and one independent expert, nominated by the administration body itself. The decision is binding on the parties to the dispute.

#### **18.4.9 Rules of Origin**

Origin is, the nationality of a product. The problem of how to define what constitutes a country of origin has long perplexed the trading world. This issue has become increasingly important as the various stages of the manufacture of products increasingly take place in more than one country. The origin of a product determines the product's treatment in an importing country (i.e. the amount of customs duties; the granting of preferential treatment; the imposition of anti-dumping duties; the free circulation of a product in a free trade area, etc.). The new agreement on Rules of Origin attempts to impose a sense of order on this difficult component of world trade.

The object of the agreement is to achieve a long term harmonisation of the rules of origin (with the exception of those rules relating to the granting of tariff preferences) and to ensure that the rules do not in themselves create unnecessary barriers to trade. Certain basic principles identifying, in general terms, manufacturing stages conferring origin on the final product are set out. For example, as a general rule and for non-preferential trade purposes, a product is considered to originate in the country where the last substantial processing or manufacturing took place. A value-added test (generally between 40-45%) with regard to the last country of processing or manufacturing may also be used.

A Committee on Rules of Origin in GAIT in conjunction with a subsidiary technical committee is to supervise the harmonisation of various countries' product-specific origin rules procedure. This ambitious harmonisation process is due to be completed within three years. Until harmonisation is completed, Members are expected to ensure that their rules of

origin are transparent as well as positive in nature (i.e. stating what does confer origin on a certain product rather than the reverse).

### 18.4.10 Import Licensing Procedures

Import licensing is a means of checking the level of imports coming into a particular country. It helps to ensure that only legally permitted goods enter and the quota limits are not exceeded. The revised Tokyo Round Agreement tightens the rules governing users of import licensing systems as well as increasing transparency and predictability. In particular:

- i) sufficient information must be published by importing countries to enable traders understand the basis on which licenses are granted;
- ii) increased guidance is now provided on the assessment of license applications;
- iii) in order to avoid unnecessary and potentially costly delays, license applications, must be considered within 60 days;
- iv) any member wishing to introduce new licensing procedures, or alter existing one, must notify the Committee on Import Licensing which will then publish them within 21 days; and
- v) criteria have been set out specifying the circumstances under which licensing procedures (under which approval of the application is always granted) are considered not to restrict trade and stating that, in the case of 'non-automatic' licensing procedures, the administrative burden imposed on importer% and exporters should be kept to the bare working minimum.

### Check Your Progress B

- 1) Enumerate two major goals of Uruguay Round.

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- 2) List three items as prohibited in Trade Related Investment Measures.

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- 3) Enumerate two changes in the anti-dumping agreement.

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4) What are the reductions in the Export Subsidies?

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5) State whether following statements are **True** or **False**.

- i) Green Box Policies do not include general government service.
- ii) Under the sanitary and phytosanitary agreement, the member states must publish all sanitary and phytostainitary measure.
- iii) The new agreement on Technical Barriers to trade does not cover agriculture products.
- iv) Trade Related Investment Measures agreement increase transparency by requiring the notification of all existing prohibited measures to all WTO secretariats.
- v) Inclusion of a de minimis rule will terminate anti-dumping action against small volume imports or those that produce a negligible effect on trade.

### 10.8.11 Subsidies and Countervailing Measures

Subsidies constitute a means for the sovereign exercise of economic, social and development policy, but frequently result in distortions of trade, due to their impact on prices. Problems can be settled either through domestic regulation or by directly approaching the WTO for multilateral dispute resolution. The Subsidies Agreement builds on earlier negotiations and the agreement reached during the Tokyo Round. Major changes include:

- i) agreement for the first time on the definition of subsidy and, more particularly, of the term ‘specific subsidy’. Only ‘specific subsidies’ are governed by the agreement and refer to those subsidies that are available only to an enterprise or industry (or a group of enterprises or industries) operating within the jurisdiction of the granting authority.
- ii) the categorization of ‘specific subsidies’ as follows:
  - (a) **Prohibited** — those subsidies which are conditional in law or practice upon export performance or upon the use of domestic rather than imported goods. Any country introducing such a subsidy will be referred to the Dispute Settlement Body. If the subsidy is confirmed as being prohibited, then the responsible country must withdraw it immediately. Failure to do so within an allotted period of time may result in the imposition of retaliatory and countervailing measures;
  - (b) **Actionable** — those subsidies which, although not prohibited, adversely affect other Members and seriously prejudice their interests. Serious prejudice will be presumed where the ad valorem subsidization of a product exceeds 5% or, where a subsidy has been given in order to prop up a loss-making industry. Where serious prejudice is cited by a Member, the burden of proof is on the subsidising Member. The affected Member has the right to refer an unresolved

dispute to the Dispute Settlement Body where a finding of serious prejudice will result in the subsidy having to be withdrawn, or, the prejudicial part of it removed. In addition, the Member suffering injury thereby may adopt countervailing measures;

- (c) **Non-actionable** — those subsidies which assist industrial research and pre-competitive development activity provide assistance to disadvantaged regions or are used in certain circumstances to assist in adapting existing facilities to new environmental requirements. In the event that a Member believes that a non-actionable subsidy is having an adverse effect on its domestic industry, it may refer the matter to the Committee on Subsidies and Countervailing Measures for a review and binding recommendations may, eventually, adopt countervailing measures.

- iii) introduction of new compulsory rules on the calculation of the value of subsidies; are an allowable protective measure design to shield domestic industries from sudden and unexpected increase in imports whenever such imports cause or threaten to cause serious injury to domestic industry. This generally takes the form of quantitative import restrictions (import quotas), import surveillance measures (through the imposition of import licensing procedures), or the imposition of high customs duties.

#### **18.4.12 Safeguards**

The Safeguards Agreement attempts to strengthen the effectiveness of safeguard measures whilst, at the same time, limiting both their scope and duration. Important changes include:

- i) phasing out all ‘grey area’ measures such as voluntary export restraints (VERs) agreements and orderly market arrangements. However, one VER per member will be tolerated over a specific period of time provided it has been notified to the WTO;
- ii) the establishment of a Committee on Safeguards to monitor all safeguard measures taken and to ensure their compliance with the agreement;
- iii) the restriction of safeguard measures to a maximum four year period, with the possibility of one four-year extension. Measures in existence prior to the Uruguay Round are to be phased out by the end of 1999;
- iv) for the first time, the possibility of taking selective action against individual countries where their exports are thought to be particularly damaging; and
- v) recourse to the Dispute Settlement Mechanism in the event of an enduring disagreement between Members.

#### **18.4.13 General Agreement on Trade in Services (GATS)**

The Uruguay Round includes for the first time a ‘General Agreement on Trade in Services’ (or “GATS”) which attempt to do for services what GATT has done for trading goods by establishing a multilateral framework for the reduction and elimination of barriers to

international trade in services. GATS establishes the Most Favoured Nation ('MFN') (equalisation of treatment) principle for trade in services, which, it is hoped, will lead to an improvement in the position of those countries currently subject to discrimination. As with other GATT/WTO elements, OATS contains a series of rules and specific commitments to open markets. Members of the new WTO are now obliged to offer MFN status and provide market access ensuring transparency to all service providers from countries bound by GATT. Exemptions to MFN can be sought in specific circumstances. For example, it should be noted that the EU has an MFN exemption in the audio-visual sector and, therefore, is not bound to give equal treatment to third countries.

The GATS agreement contains three elements:

- i) a framework of general rules and disciplines;
- ii) annexes consisting of special conditions relating to individual sectors; and
- iii) national schedules of market access commitments.

The GATS framework is made up of 29 articles. The scope of the agreement covers all internationally traded services, howsoever, they may be delivered. Whilst GATS intends to protect services, it does not apply directly to services themselves but to governmental measures affecting trade in services. These measures can take the form of regulations, rules, procedures, decisions, administrative actions, etc. and may be made by any level of government.

There are four GATS annexes, covering the movement of persons, financial services, telecommunications and air transport services. These annexes represent negotiations that were incomplete at the end of the Uruguay Round but were granted an extension of time.

The national rules (which include MFN exemptions) contain the negotiated and guaranteed conditions under which international trade in services is conducted. Once recorded, such a national obligation cannot be adversely altered without three months advance notice of the change and the negotiation of compensation to affected countries. However, improvements to the schedule can be made at any time. In any event, Members are committed to further liberalisation of services under GATS by means of future negotiating sessions.

In summary, over 150 services and sub-sectors can be covered by the new rules, including professional services (accounting, architecture and engineering), other business services (computer services, rental and leasing, advertising and consulting), communications (telecommunications, audio visual services), construction, distribution (wholesale and retail trade, franchising), financial services (banking, securities, insurance) and others. Benefits will extend not only to service providers but also to entities that depend on accounting, financial, legal, insurance and other service providers to conduct their business.

A Council for Trade in Services is established, entrusted with the task of furthering the objectives of the agreement.



#### **18.4.14 Trade Related Intellectual Property (TRIPs)**

A significant and ever increasing volume of world trade is now regulated by Intellectual Property Rights ('IPRs') in one form or another. As trading increases, so do incentives to breach IPRs. Counterfeiting, copying and 'piracy' are now widespread, thus presenting barriers to fair trade. The situation is exacerbated by the fact that such practices are not illegal in many of the less developed countries. The copying of products has led to a considerable loss of export revenue amongst the industrialised nations. The worst hit industries have been chemicals and pharmaceuticals; but other major problem areas include books, records, software and entertainment. It is estimated that the EU loses at least 10% of the value of its exports to copyright piracy. An additional problem has been the appropriation of brand names and even, in the case of wine and foodstuffs, geographical appellations. This, coupled with poor quality in the 'secondary' product, has had damaging effects on the reputation of genuine articles.

As a result of these growing trends, Intellectual Property Rights were included in the Uruguay Round negotiations, The Trade Related Intellectual Property ('TRIPs') agreement attempts to regulate and standardise international IPR in order to prevent the above mentioned abuses and so create a fairer trade market. The result has seen a strengthening or existing international conventions, such as the Berne and Paris Conventions for the protection of literary and artistic works, by bringing them within the ambit of the WTO Dispute Settlement Mechanism, There has also been a strengthening of IPRs in the following additional areas:

- i) stronger protection of trade marks;
- ii) greater protection for industrial designs, especially within the textile and clothing industry;
- iii) introduction of patent protection in all countries for pharmaceutical and chemical products;
- iv) extension to a world wide level of semi conductor protection;
- v) prohibition of appropriation and misuse of geographical appellations;
- vi) establishment of a clear set of principles for the enforcement of IPRs through the national courts. Breaches will be subject to sanctions under the Dispute Settlement Procedure;
- vii) setting up of a Council for TRIPs to oversee the smooth running of the agreement; and
- viii) establishment of the rules on compulsory licensing necessary for developing countries.

#### **18.4.15 Dispute Settlement**

The establishment of a Dispute Settlement Mechanism was one of the major achievements of the Uruguay Round. A dispute settlement procedure existed in the pre Uruguay Round GATT, but it was handicapped by the refusal of countries, particularly the developed countries, to bring cases before it or, on those rare occasions, to respect its final rulings. The new Dispute Settlement Mechanism represents the 'teeth' of the new WTO. The Members have, in the Uruguay Round Agreement, agreed not to take unilateral action, as so often

occurred in the past against perceived violations of trade rules. Instead, they have pledged to seek recourse in the new system and to abide by its rules and procedures. The trade agreements acknowledge that prompt settlement of framework document for the Dispute Settlement Mechanism is contained in an Annex to the Uruguay Round Agreement entitled 'Understanding on Rules and Procedures Governing the Settlement of Disputes' which updates a similar practice by the GATT Secretariat developed during the 1980s.

#### **18.4.16 Trade Policy Review Mechanism (TPRM)**

The purpose of the Trade Policy Review Mechanism ('TPRM') is to monitor the trade policies and practices of the WTO's Members and to assess their impact on the multilateral and, where relevant, plurilateral trading system. The aim of the TPRM is to achieve a greater degree of transparency and understanding of Members' trade policies which will lead to a smoother running of the global trading system.

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### **18.5 PLURILATERAL TRADE AGREEMENTS**

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The agreements on goods, services and IPRs are grouped together under the heading 'Multilateral Agreements'. The significance of the Multilateral Agreements is that accession to the WTO is dependent on their acceptance in full by potential members. However, a number of other agreements whose acceptance is not a prerequisite to WTO membership, were also concluded during the Uruguay Round. These 'Plurilateral Agreements' were formally annexed to the Final Act of the Uruguay Round and will be regulated and supervised by the WTO. These agreements will, however, only be applicable (and thus enforce-able) between their signatories.

There are four Plurilateral Agreements concerning (i) Public Procurement; (ii) Trade in Civil Aircraft; (iii) International Dairy Products; and (iv) International Bovine and Meat Products.

#### **18.5.1 Public Procurement**

The new agreement on public procurement will supersede the current limited 'Code' which has been in operation since 1981. The new agreement expands the Code in the following manner:

- i) the key feature of the new agreement on public procurement is that foreign suppliers and foreign goods and services must be given no less favourable treatment in government procurement than national suppliers of goods and services. To achieve this, tendering procedures have been revised and, strengthened, as have rules relating to the qualification of suppliers, the contents of tender documentation provided to those potential suppliers and the time limits for tendering and delivery. In addition, information explaining how and why a contract has been awarded is now mandatory.
- ii) whereas the earlier Code only covered a limited number of central government departments, the new agreement includes additional government

departments at a national and sub-national level, regional states, cantons and, in some cases, large metropolitan authorities;

- iii) procurement for construction projects and services, as well as products, is now covered;
- iv) additional countries have become signatories to the new agreement, taking the total to eight, in addition to the EU Member States;
- v) a Committee on Government Procurement under the supervision of the WTO General Council has been established; and
- vi) private parties will be able, through the national courts, to challenge violations of the Code by parties to the agreement.

### **18.5.2 Trade in Civil Aircraft**

The agreement which has 21 signatories was originally concluded during the Tokyo Round and came into force on 1<sup>st</sup> February 1980. Its major points include:

- i) the elimination of import duties on all aircraft (other than military aircraft) as well as on civil aircraft engines and their parts and components, all civil aircraft components and sub assemblies as well as flight simulators and their parts and components;
- ii) the imposition of strict regulations to cover government directed procurement of civil aircraft (including inducements to purchase) as well as government financial support for the civil aircraft sector; and
- iii) the establishment of a Committee on Civil Aircraft, under the supervision of the WTO General Council.

### **18.5.3 International Dairy Products**

The International Dairy Agreement became effective on 1 January 1980. The agreement, which covers all dairy products, aims to introduce greater stability in the market by seeking to limit surpluses, shortages and large fluctuations in price. In addition, the agreement:

- i) seeks to improve international cooperation in the dairy products sector;
- ii) commits itself to assisting in the economic and social advancement of developing countries; and
- iii) establishes an International Dairy Council, under the guidance of the WTO General Council, with responsibility for setting minimum export prices for trade in milk powders, milk fat (including butter), and certain cheeses.

### **18.5.4 International Bovine and Meat Products**

Along with Dairy and Civil Aircraft Agreements, the International Bovine Meat Agreement, with 27 signatories including the EU, was originally negotiated during the Tokyo Round. The agreement which covers beef, real and live cattle, seeks an expanded but regulated market M meat and livestock. In particular, the agreement:

- i) aims to improve international cooperation in the meat products sector; and
- ii) establishes an International Meat Council under the guidance of the WTO General Council, to evaluate the world supply and demand situation for meat and to generally act as a forum for discussion on all matters relating to the bovine meat products sector of world trade.

However, for the success of these agreements, the interplay with national constitutions and laws is extremely important.

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## **18.6 WTO MINISTERIAL CONFERENCE**

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Since the formation of WTO, six ministerial conferences have been held as per the following time schedule and in the venues —

- 1996 — Singapore
- 1998 — Geneva, Switzerland
- 1999 — Seattle, USA
- 2001 — Doha, Qatar
- 2003 — Cancun, Mexico
- 2005 — Hong Kong

The above conferences provided political guidance for decision-making and laid road maps for different phases of trade negotiations. In this sequence, the conference held in Hong Kong during December 2005, laid the road map for the final phase of negotiations. The main outcomes of the discussion were: a) duty free quota free market access to all products originating in least developed countries in the markets of developed countries; b) reduction in trade distorting domestic support in developed countries more speedily than in the case of other agricultural products; a) total elimination of export subsidies on agricultural products by the year 2013 and establishment of modalities in agriculture and non-agriculture market access by 30th April, 2006 and draft schedules in this regard to be ready by 31st July, 2006; d) elimination of export subsidies in cotton by developed countries in 2006; and e) submission of revised offers in Services by 31st July, 2006 and final draft schedules by 31st October, 2006. Besides guidances were also provided on development issues.

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## **18.7 INDIA AND THE WTO**

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You have learnt about multilateral and plurilateral agreements now let us briefly discuss India's position vis-a-vis the WTO.

Independent of obligations under the GATT Accord, the Government of India has been following a policy of liberalisation and globalisation of the economy. This has been reflected in the budgets of successive years. For instance, import duties have been reduced drastically.

Foreign Exchange Regulation Act (FERA) has been diluted and replaced by Foreign Exchange Management Act (FEMA), the rupee has been made convertible on current account. Foreign institutional investment in capital market is allowed. Many mom steps have been taken to open up the Indian economy. The obligations under the GATT Accord are, thus, not inconsistent with the policies of the Government. Yet, some rapidity may be required in compliance with WTO rules. For example, after the Uruguay Round, about 68% of its tariff lines covering basically raw materials, components and capital goods, but excluding consumer goods, petroleum, fertilizers and some non-ferrous metals, will have been bound. In comparison, the principal developing countries in Asia and Latin America have expressed the intention of binding between 90-100% of their tariff lines at levels comparable to or lower than our bindings. Preliminary assessment also shows that reductions in tariffs by developed countries on products of export interest to India range from above 60% (Japan), 23% (EU) to 18% (US).

The emerging trade groupings, the world over, are posing a threat to the growth of trade of countries outside the trade groupings. Multilateralism provides the much needed protection to countries like India which am not significant share holders In world trade. Strengthening of the multilateral system reduces threat of bilateral action. If India opts out of the multilateral system, it has to sign hundreds of bilateral agreements which is a very cumbersome process and the terms are sure to be far more disadvantageous compared to those of the multilateral system. To take full benefit of participation in the multilateral system, India should take vigorous measures to upgrade technology and modernise both industry and agriculture so as to increase its competitive strength in the world market. Similar is the importance of research and development in pharmaceuticals where there is pressure to introduce product patents.

### **Check Your Progress C**

1) Enumerate three elements of General Agreement on Trade in service.

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2) Enumerate three areas of Trade Related Intellectual Property Rights.

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3) What is the Purpose of Trade Policy Review Mechanism?

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4) Enumerate four Plurilateral Agreements.

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5) State whether following statements are **True** or **False**.

- (i) Where serious prejudice is cited about the subsidy by a member, the burden of proof is on the subsidising member.
- (ii) The Safeguard members do not phase out all grey area measures.
- (iii) The scope of the General Agreement on Trade in services do not cover all internationally traded services.
- (iv) In public procurement, the information explaining how and why a contract has been awarded is now mandatory.
- (v) The International Bovine and Meat products agreement aims to improve international cooperation in the meat products sector.

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### **18.8 LET US SUM UP**

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The GATT - the General Agreement on Tariffs and Trade had been the principal international organisation and rule system governing international trade. The GATT had been part of a broader system - the Bretton Woods system which includes the major monetary institutions (the IMF and the World Bank) as well as a number of other treaty instruments. The GATT mandate was to oversee international trade in goods and to gradually liberalise that trade by means of progressive reductions in trade barriers. The furthering of trade liberalisation was to be achieved by negotiating Rounds held between various GATT contracting parties on a regular basis. In all, there have been eight GATT Rounds, including the Uruguay Round held during 1986- 93. It was during this Round that the new trade regulatory organisation — the WTO was set up. The WTO contains an improved version of the original GATT rules — GATT 1994, which mutate and strengthen the original GATT rules. The trade agreements in this Round detailed out diverse commitments of Members as regards to agriculture, sanitary and phytosanitary measures, textiles and clothing, technical barriers to trade, trade related investment measures (TRIMS), anti-dumping, customs valuation, pre-shipment inspections, rules of origin, import licensing procedures, subsidies and countervailing measures, safeguards, trade in services (GATS), trade related intellectual property (TRIPS), dispute settlement, and trade policy review mechanism (TPRM). Optional commitments have been spelt out in the areas of public procurement, trade in civil aircraft, international dairy products and international bovine and meat products. India has still to make progress as regards to phase-out of quantitative restrictions and investment measures, reduction of tariffs on agricultural goods and export subsidies to meet WTO commitments.

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### **18.9 KEY WORDS**

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**Dumping:** The underpricing of exports, usually below cost or below the home country price.

**Foreign Direct Investment:** An investment that gives the investor a controlling interest in a foreign company.

**General Agreement on Tariffs and Trade (GATT):** A multilateral arrangement aimed at reducing barriers to trade replaced by World Trade Organisation (WTO) after Uruguay Round of Trade Negotiations. Multilateral

**Intellectual Property Rights:** Ownership rights to intangible assets, such as patents, copyrights, etc.

**Multifibre Arrangement:** An agreement among governments establishing rules on textile trade.

**Multilateral Agreement:** An agreement involving more than two governments.

**Quota:** A limit on the quantitative amount of a product allowed to be imported into or exported out of a country.

**Subsidies:** Direct or indirect financial assistance from governments to certain sectors to enhance their competitiveness.

**Tariff:** A government tax levied on goods, usually imports, shipped internationally.

**World Trade Organisation (WTO):** A voluntary organisation through which groups of countries negotiate trading agreements and which has authority to oversee trade disputes among countries replaced GATT.

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## 18.10 ANSWERS TO CHECK YOUR PROGRESS

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B 5 i) False ii) True iii) False iv) True v) True

C 5 i) True ii) False iii) True iv) True v) True

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## 18.11 TERMINAL QUESTIONS

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1. Distinguish between GAIT and WTO. Explain the structure and functions of WTO.
2. What are the major goals of the Uruguay Round? Explain the multilateral trade agreements regarding agriculture, textiles and clothing and technical barriers to trade.
3. Explain the following multilateral trade agreements.
  - i) Trade Related Investment Measures
  - ii) Subsidies
  - iii) Trade in Services
  - iv) Trade Related Intellectual Property.
4. What are plurilateral trade agreements? Explain major plurilateral trade agreements.
5. Analyse India's position in relation to WTO.
6. Write Short notes on :
  - i) Agreement on anti-dumping
  - ii) Agreement on import licensing procedures
  - iii) Agreement on rules of origin.