

# India & The WTO

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## WTO Issues and India's Concerns

( Statement made by Ramakrishna Hegde, Union Minister of Commerce, at the Second Ministerial Conference of the WTO in Geneva 18-20 May, 1998 )

It is an occasion of rare privilege and honour for me to be present at the Second Ministerial Conference of the World Trade Organisation (WTO), as it coincides with the 50th Anniversary of the General Agreement on Tariffs and Trade (GATT). We have come a long way since GATT was initially established in 1947. During the last 50 years, we have striven progressively to lower barriers to trade all over the world. We have negotiated long and hard and we have endeavoured to understand and accommodate the interests of all countries and groups of countries. The Uruguay Round Agreements represent a major step forward in our efforts. The establishment of the WTO has created a forum for continuous negotiations to reconcile the sometimes conflicting interests of trading partners.

India is proud to have been a founder Member both of GATT and of WTO. Over the years, our negotiators have played a prominent role in shaping the contours of the multilateral trading system as it exists today. We have contributed significantly to the successful conclusion of all trade negotiations. We have helped in various ways to reconcile seemingly irreconcilable positions. We have participated effectively in the

formulation of all major trade agreements. Since the formation of WTO, our delegation has been active at all times in all deliberations and we have played a part in bringing difficult negotiations to a satisfactory conclusion.

**The multilateral trading system, which the WTO administers, represents a balance of concessions which, if implemented in letter and spirit, could bring about orderliness, transparency and predictability in global trade. The principle of most-favoured nation treatment of all Member countries by each country, more free trade through reduction of tariffs and progressive removal of non-tariff barriers, elimination of trade distorting measures, including subsidies, systems of rules to serve as guidelines for national legislation to bring about uniformity in laws and regulations everywhere and simplification of border measures are some of the gains of the system.**

**The 50th Anniversary of GATT should be an occasion for introspection and reflection on what the system stands for, its objectives and its shortcomings. We have to be clear in our mind regarding the manner**

in which we are going to take the system forward and how we are going to strengthen it. We have to set at rest apprehensions regarding the lack of fairness of the system. **For the system to be strong and effective, all Member countries must be assured that they have an equal and effective role to play in its evolution and that their concerns will be viewed with understanding and a spirit of mutual accommodation.**

In order to make WTO an effective multilateral body, which serves the objectives for which it was set up, it is necessary to go back to the basic principles. The Uruguay Round negotiators had stated their intentions quite clearly in the Preamble to the Marrakesh Agreement establishing the WTO. They recognised "that their relations in the field of trade and economic endeavour should be conducted with a view to raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services, while allowing for the optimal use of the world's resources in accordance with the objective of sustainable development, seeking both to protect and preserve the environment and to enhance the means for doing so in a manner consistent with their respective needs and concerns at different levels of economic development. They recognised also "that there is need for positive efforts designed to ensure that developing countries, and especially the least developed among them, secure a share in the growth in international trade commensurate with the needs of their economic development".

It is very clear that the intention of the negotiators was to use trade as an **instrument for development**, to raise standards of living, expand production, keeping in view, particularly, the needs of developing countries and least-developed countries. **The WTO must never lose sight of this basic principle. Every act of implementation and of negotiation, every legal decision, has to be viewed in this context. Trade, as an instrument for development, should be the cornerstone of all our deliberations, decisions and actions. Besides, the system should be seen to be equitable and fair.** It must be used in such a manner that the letter and spirit of the Agreements is fully observed. The WTO Members must mutually support and encourage each other to achieve the final goal. It must be recognised that all Members should assume a negotiating rather than an adversarial posture. It should also be recognised that different economies have different features and structures, different problems, different cultures. The pace of change must be carefully calibrated to take into account such differences. **All Members should guard against unilateral action that cuts at the root of multilateralism.**

**Developing countries have generally been apprehensive in particular about the implementation of special and differential treatment provisions in various Uruguay Round Agreements. Full benefits of these provisions have not accrued to the developing countries, as clear guidelines have not been laid down on how these are to be implemented.** A case in point is Article 15 of the Anti-Dumping Agreement, which explicitly says that "special regard must be given by developed country Members to the special situation of developing country Members" in applying such measures and that "constructive remedies provided for by this Agreement shall be explored before applying anti-dumping duties where they would affect the essential interests of developing country Members". In actual practice, we have faced situations in which our products have been subjected to repeated anti-dumping actions and levy of provisional duties, creating an atmosphere of uncertainty and instability in the market, thus resulting in closure of smaller units and unemployment. Another example is Article XVIII:B of GATT which provides for a special dispensation for developing countries in the institution and maintenance of quantitative restrictions on imports. This Article clearly lays down that quantitative restrictions may be imposed and maintained by a developing country "to ensure a level of reserves adequate for the implementation of its programme of economic development". However, in actual practice we find that the development dimension is totally ignored while assessing the adequacy or otherwise of foreign exchange reserves, with the result that there is no distinction between Articles XII and XVIII. All developing countries are firmly of the view that development has to be brought back to the centre stage of WTO activities, as was intended by the Uruguay Round negotiators.

**Another issue of deep concern is the trend towards unilateral action** by certain developed countries in total disregard of provisions laid down in the Uruguay Round Agreements. We are forced, at great expense and considerable difficulty, to take such issues to the dispute settlement mechanism. Distinguished delegates are aware that developing countries and least-developed countries have to battle against resource constraints and shortage of skills and expertise in these areas. Such unilateral action, I have no hesitation to say, bring to disrepute the entire multilateral trading system which we have struggled to build over the years. This would necessarily slow down the impetus for reform in all developing countries.

There has also been **an increasing trend in the recent past in favour of regionalism.** While regional economic groupings have resulted in increased trade among countries in the region, there is inherent danger of

discrimination against third countries. Article XXIV of GATT specifically recognises regional arrangements as an exception to the multilateral system. While we recognise the positive effect of regional groupings that are consistent with the principles of the multilateral trading system and also the special needs of developing countries as enunciated in the Enabling Clause, we fear that the proliferation of such arrangements may weaken the framework of the system. The rules relating to such regional arrangements need to be clear and precise and should ensure that market access for third countries is not denied or reduced. Otherwise, we will, over the years, have a situation where the multilateral system becomes largely irrelevant.

**The implementation aspects of the Uruguay Round Agreements need to be given special attention.** We have been articulating from time to time our concerns regarding the **implementation of the Agreement on Textiles and Clothing.** At the Singapore Conference, we had drawn the attention of Members to the adverse impact on our exports of actions taken under this Agreement, such as the series of transitional safeguard measures, which were subsequently found to be inconsistent even with the provisions of the Agreement. We have taken careful note of the First Major Review of the Agreement conducted by the Council for Trade in Goods earlier this year. It is a matter of deep concern to us to note that, in spite of the provisions negotiated by us to ensure a commercially meaningful phasing out of restrictions maintained under the MFA regime, the review confirmed that **the bulk of restrictions would get integrated into the GATT 1994 only at the end of the transition period.** This is indeed a serious matter, considering that the Members resisting progressive liberalisation of trade in this sector are demanding from countries like India faster and more "broad-based" liberalisation in other sectors. Obviously, in this context, **we must see a symmetry of concessions as far as trade liberalisation is concerned. I have referred elsewhere in my address to the pernicious effect of the use of anti-dumping measures by a major trading partner on our textile and clothing exports. In the context of the Agreement on Textiles and Clothing, the use of anti-dumping measures on textile and clothing exports which are already under a quota regime, is a clear case of protectionism and needs to be deplored in the strongest terms.** We are glad that Members have decided to entrust the Council for Trade in Goods with the task of keeping the implementation of the ATC under regular review. We reaffirm our commitment to fulfil this mandate given to the Council, especially in the process we would be initiating with respect to evaluating the overall implementation of WTO Agreements. I would like to emphasise that the textiles and clothing sector is an extremely significant part of our own economy accounting for 20% of national industrial output and providing means of living to 30 million people. Any restriction of market access for our exports of textiles and clothing products would, therefore, have very serious implications for us in terms of

income and employment and jeopardise the very credibility of the multilateral trading system.

**The Agreement on Agriculture will come up for review in the year 2000. We will then have an opportunity to have a fresh look at this area, keeping in view the development perspective and the needs of developing countries. There still remain a number of inequities as far as the implementation of the Agreement is concerned.** For instance, while the majority of developing countries are prohibited from providing export subsidies, the developed countries are permitted to resort to such subsidies provided their budgetary outlays are within their reduction commitment. This is obviously unfair in the sense that countries which have been distorting the market in the past can continue to maintain subsidy regimes, while others are prohibited from using such measures in the future. This Agreement is based on the rationale of open international trade in the agricultural sector. It presupposes the supremacy of an open price based system, thereby implying that a country should import agricultural products if they are produced cheaper elsewhere. India and certain other developing countries have been stressing the need for the multilateral trading system to **recognise the importance of food security.** A country may not have the resources to buy agricultural products from international markets even if they are easily available. Moreover, a very large percentage of the rural population in such countries is dependent on agriculture and any measure that has an effect on employment in this sector needs to be carefully examined. **It is necessary also to have a close look at the shortcomings in minimum market access provisions, which are circumvented in many ways** in the actual process of implementation by various ingenious methods such as aggregation of tariff lines into product groups. The exemptions given for direct payments to farmers and deficiency payments from the ambit of reduction commitments in respect of production subsidies also need to be carefully studied. There is also the issue of the possible negative effects of the reform programme on least-developed and net-food-importing developing countries which has not been effectively addressed as yet, despite a Ministerial Decision during the Uruguay Round negotiations.

**The General Agreement on Trade in Services will also be reviewed in the year 2000. We would hope that developing countries will be able to achieve substantial improvement in market access during the negotiations. While there has been great focus on movement of goods and capital, particularly from markets in the developed world to developing countries, hardly any attention has been paid to market access to professionals from developing countries, our engineers, our doctors, our technicians.** The fear expressed in the developed countries that there will be transfer of job opportunities from the North to the South pays scant regard to the fact that the free inflow of goods and services into developing countries can likewise lead to displacement of industry, unemployment, decline in effective demand, fall in incomes and the deprivation of the

globally under privileged. **We are concerned that the comparative advantage of our professionals is not allowed to be exploited in full measure, while, at the same time, there is unabating pressure on us to open markets to goods and services in which the developed world has a decisively comparative advantage.**

**Protectionist measures adopted by developed countries in various ways restrict market access for goods and services produced in developing countries. An analysis of India's external trade reveals that the sixteen countries or territories to which four fifths of our exports are directed, maintain eight major categories of non-tariff barriers restricting our market access.** These include restrictive import policy regimes, standards, testing, labelling and certification measures which are set at unrealistic levels for developing countries or are scientifically unjustified, export subsidies, barriers on movement of services, unfavourable government procurement regimes, barriers to investment and other barriers including anti-dumping measures and countervailing measures. In the area of standards in particular, developing countries suffer both at the stage of standard setting in international bodies and in actual implementation. Article 12 of the Agreement on Technical Barriers to Trade and Article 10 of the Agreement on Sanitary and Phytosanitary measures needs to be implemented in letter and in spirit.

**Similar imbalances are seen in the TRIPs Agreement.**

Although Article 65 of the TRIPs Agreement contemplates a transition period of ten years for India as a developing country to introduce product patent protection in areas of technology not so protected in its territory as on 1 January 1995, such as pharmaceuticals and agri-chemicals, the obligation under Article 70.9 to grant exclusive marketing rights for patents at any time after the entry into force of the WTO Agreement effectively neutralises this transition period available to us. **In the realm of geographical indications, the additional protection available to wines and spirits is not applicable to the region specific products of developing countries.** The current debate in India on the Basmati rice issue, involving the passing off type of activity indulged in by certain foreign enterprises with regard to this kind of rice which is associated with certain regions of India, has focussed attention on the need for higher protection for products other than wines and spirits under Article 23 of the TRIPs Agreement.

**Indeed, the issue of development of proprietary patents by enterprises based on the traditional knowledge of indigenous communities, nurtured through generations, without obtaining prior informed consent or without coming to any agreement on benefit sharing, have been viewed as iniquitous practices by countries such as India, which are storehouses of such indigenous knowledge.** A situation, where indigenous biotechnology, developed over the ages in countries such as India, is being used without any flow back of benefits from patentees to original developers calls for amendments in the TRIPs Agreement. The imbalances in the TRIPs Agreement and its

tilt against the holders of indigenous know-how, mainly based in developing countries, misaligns it with another major international agreement, namely, the Convention on Biodiversity.

Moreover, where Multilateral Environmental Agreements, such as the Montreal Protocol or the Framework Convention on Climate Change set time bound targets for adherence to certain environmental standards, **there also has to be provision for transfer of environmentally sound technologies and processes on fair and reasonable terms to developing countries built into the TRIPs Agreement.** The same mechanism of transfer of technology on reasonable terms will have to be available where developed countries lay down difficult mandatory national standards. Resources for compensating individual exporters for transfer of technology at non-commercial rates could easily be found from the funds presently used for providing subsidies and support measures to producers in developed countries.

**Thus, the agenda before us is heavy. The shortcomings of the Uruguay Round Agreements and problems in their implementation have come to light in increasing measure.** These shortcomings have necessarily to be addressed in a fair and objective manner and solutions found through negotiations in a spirit of mutual understanding. Developed countries, with far greater experience in global trade and a strong information infrastructure, are in a much better position to exploit market access opportunities provided by the Uruguay Round Agreements and to use them to their advantage. It is for this reason that developing countries have been resisting the move to widen the area of activity of the WTO. The developing countries are still at a preliminary stage in understanding the Agreements, implementing them as they can, absorbing their full implications and meeting the onerous notification requirements. We consider that attention should be focussed on implementation issues and the issues relating to the built-in agenda rather than take up new issues at the present moment. **Faith in the multilateral trading system will increase manifold if people perceive that it is sensitive to their needs and concerns.**

We are, however, deeply committed to the success of the multilateral trading system. We believe that the WTO and the multilateral trading system must be effective instruments for serving the needs of the weakest section of the society in all parts of the world. No single pattern, no single package of measures can be considered to be universally applicable. We would be deluding ourselves by thinking that a single remedy can be applied across the board. What we should strive to achieve is the amelioration of the living conditions of all people, particularly the poorest. In the words of Mahatma Gandhi, "I do not believe in the 'greatest good of the greatest number', nor can I agree that might is right. For human beings, the object in view should be the good of all, with the weak being served first". On this, the 50th Anniversary of GATT, let us resolve to forge ahead in a spirit of mutual accommodation and goodwill, keeping in perspective at all times the needs of the poorest, the most underprivileged amongst us.

# Monthly Update from PMI/Geneva

(15th January 15th February, 1999)

## Preparations for the Third Ministerial Conference

As part of the ongoing preparations for the **next Ministerial Conference of the WTO to be held in Seattle, USA**, in November-December 1999, the 4th Inter-Sessional meeting of the WTO General Council was held on 27 January and 2 February 1999 in Geneva. The meeting considered (a) issues under para 9:b of the Geneva Ministerial Declaration (GMD) relating to recommendations concerning possible future work on the basis of the work programme initiated at Singapore; (b) issues under para 9:d of the GMD relating to recommendations agreed to by members concerning their multilateral trade relations; (c) revisiting issues raised at previous inter-sessional meetings; and (d) organisation of future work.

**On the four Singapore Issues that is, Trade and Investment, Trade and Competition Policy, Trade Facilitation and Transparency in Government Procurement, India has been pointing out that there is still lot of analytical and exploratory work that needs to be done in respect of these areas and that therefore the educative process started in various Working Groups should continue. Our stand has been that while we are fully committed to the consideration of the implementational issues, to the mandated reviews and the mandated negotiations, we have serious reservations about expanding this agenda to include the Singapore issues, industrial tariffs, environmental issues, labour standards etc.**

We feel that WTO already has an overloaded agenda and developing countries like India are finding it difficult to fulfil even their existing obligations. Therefore, increasing the load without adequately first addressing all existing asymmetries and imbalances in the various Agreements would be inappropriate. In the context of Singapore issues, developed countries particularly the EU, Japan and Canada have been pressing for an unfettered right to flow of capital and favour a multilateral agreement on investment. On the other hand, countries like India feel that there are no indications that such a Multilateral Agreement on Investment would enhance the total investment flows or would significantly change the existing pattern of investment flows. Similarly, in the area of Trade and Competition the developing countries feel that the work done in the concerned Working Group has only reinforced the view that issues relating to trade and competition are complex and that they would require further in-depth analysis. On transparency in Government

Procurement also we feel that it is too early to draw any conclusion towards framing multilateral disciplines in this area and that the Working Group should first fully understand the concerns of the developing countries and address them before considering the need for developing such disciplines.

Some delegations have been attempting to raise certain non-trade issues in particular that of core labour standards. Most of the developing countries feel that the Singapore Ministerial Declaration while dealing with core labour standards, made it abundantly clear that the International Labour Organisation was the competent body to deal with the subject of core labour standards.

## Regional Trading Arrangements

The Committee on Regional Trading Arrangements (CRTA) met both informally and formally during this period to continue its examination of the various regional trading arrangements notified to the Committee. There are currently 34 Regional Trading Arrangements (RTAs) whose draft reports are under examination. The para on the conclusions of these reports continues to attract divergent views. While the friends of the Primacy of the Multilateral Trading System (MTS) -- Australia, New Zealand, Korea, Japan, HKC, Pakistan and India -- feel that any conclusions regarding the consistency of these Agreements with the concerned Articles of GATT and GATS (General Agreement on Trade and Services) is not possible since the discussion on the systemic issues is still not complete. These Members accordingly favour an open ended conclusion which brings out these shortcomings in the review process. On the other hand the major players who have entered into the regional arrangements, the NAFTA parties, EC and other European countries feel that the conclusions of the review process cannot be held hostage to the systemic debate. The Chairman is endeavouring to find a compromise by the introduction of a chapeau to the para on conclusions which would bring in these generic concerns.

## Trade and Competition Policy

In the working group on the interaction between trade and competition policy members decided to continue the analytical work and to take up the following issues in its future meetings, namely, (a) the relevance of WTO principles of national treatment, transparency and most favoured nation treatment and competition policy and vice-

versa; (b) approaches to promoting cooperation and communication among members including in the field of technical cooperation; (c) the contribution of competition policy to achieving the objectives of the WTO including promotion of international trade; and (d) other issues that members wish to raise relating to trade and competition policy, including anti-competitive practices. It was also agreed that the WTO secretariat would be asked to prepare a short factual paper, setting out the principles referred to above.

## Dispute Settlement Body

The period between January 15, 1999 and February 15, 1999 saw the Dispute Settlement Body (DSB) reconvene twice in formal sessions on January 29 and February 17 respectively. The subject which dominated both meetings was the Banana dispute between the US and the EC. The crux of the question was whether the American request for suspending concessions against the EC under Article 22 of the Dispute Settlement Understanding (DSU) was justified since a multilateral determination of EC non-compliance had not yet been undertaken under Article 21.5 of the DSU. In the meetings of the DSB, there was an overwhelming opinion not to grant the American request for retaliation since doing so would amount to multilateral endorsement of the US unilateral action. Finally, as a compromise, it was decided that the matter of whether or not the new Banana regime put in place by the EC is WTO

consistent or not will be referred to an Arbitrator, in this case the Chairman of the original panel. The decision of the arbitrator should be available on 1st March. Meanwhile, the US and EC are also consulting with a view to reaching mutually satisfactory solution.

## Services

The Council for Trade in Services decided on 15 February, 1999 that WTO Financial Services Agreement will enter into force on 1 March, 1999. Also, the 52 governments which have accepted the financial services protocol (including India) decided that time would be given till 15 June 1999 for another 18 governments to accept the protocol.

## Shrimp-Turtle Dispute

It will be recalled that the Dispute Settlement Body adopted in November 1998 the Panel and the Appellate Body Reports on the dispute relating to the US prohibition on import of certain shrimp and shrimp products from India, Thailand, Malaysia and Pakistan. As per the Dispute Settlement Procedures of the WTO, India and the other countries agreed with the United States on 21 January, 1999 that the latter would have time till December 1999 to bring itself into conformity with WTO Agreements.

-- From the Permanent Mission of India, (PMI)/Geneva

## News Briefs

### India, Pakistan to coordinate position on WTO

- \* India and Pakistan will undertake consultations on WTO related issues with a view to coordinating their respective positions.
  - Joint Statement, Lahore, 21 February, 1999, following discussions between Prime Minister of India Atal Bihari Vajpayee and the Prime Minister of Pakistan Nawaz Sharif on the occasion of the inaugural run of the Delhi-Lahore bus service.

### Advisory Committee on International Trade set up

- \* Government have decided to set up a 18-member Advisory Committee on International Trade under the chairmanship of the Commerce Minister, to, inter alia, advise the government on the formulation of international trade policy with specific reference to discussions and negotiations in the WTO. (The first meeting of the Advisory Committee was held in New Delhi on 29 January, 1999).
  - Ministry of Commerce Resolution, 25 January, 1999.

### National Bio-resources Board proposed

Among the 18 hot spots of bio-diversity in the world, two happen to be in India, in the Eastern Himalayas and the Western Ghats respectively. To coordinate policies, research, documentation and legal protection of the country's rights in this important area, a National Bio-resources Board (NBB) will be set up under the chairmanship of the Minister of Science and Technology.

- Budget speech of the Finance Minister, 27 February, 1999.

### US for farm trade at centre of new round

- \* The US has called for radical liberalisation of international trade in agriculture to be made a centre piece of a comprehensive new round of world trade negotiations, which seems increasingly likely to be launched at the end of this year. Mr. Al Gore, US Vice President said the US wanted broad and deep reductions in agricultural tariffs, which averaged 40 per cent, and the outright elimination of farm export subsidies. He made clear that these demands were directed primarily at the European Union, where farm subsidies cost the average family \$1,500 per year.

- Meeting of the world business leaders at Davos, as reported in Financial Times of London, 1 February, 1999.

# Anti-dumping checking unfair trade practices

The General Agreement on Tariffs and Trade (GATT) lays down the principles to be followed by the member countries for imposition of anti-dumping duties, countervailing duties and safeguard measures. Article VI of GATT 1994\* allows members to apply anti-dumping measures. Such measures can be imposed by WTO member countries on imports of a product with an export price below its normal value (usually the comparable price of the product in the domestic market of the exporting country) if such dumped imports cause injury to a domestic industry in the territory of the importing members. Pursuant to GATT 1994, detailed guidelines have been prescribed under the specific agreements which have also been incorporated in the national legislations of the member countries of the WTO. Indian laws were amended with effect from 1-1-95 to bring them in line with the provisions of the respective GATT agreements. While the power for recommending anti-dumping duties and countervailing duties is vested in the Designated Authority in the Ministry of Commerce, the power to recommend safeguards is vested in the Authority in the Ministry of Finance.

The anti-dumping rules in India are hence based on the Agreement on implementation of Article VI of GATT 1994. The rules clearly require prima-facie evidence of dumping, injury and a causal link to be available before initiation of investigations. Investigations are normally initiated on the written request by or on behalf of the domestic industry and on the basis of a fully documented petition to sustain the charge of dumping and injury. The procedures and due processes are carried within certain prescribed time limits. On the basis of investigations and information provided by the domestic industry and the exporters, the authority takes a view on the existence of dumping, injury and causal link to levy provisional and/or final duties.

The Directorate General of Anti-Dumping and Allied Duties in the Ministry of Commerce was inaugurated on the 13th April, 1998 with a view to expediting the investigations of dumping as well as subsidy cases. While the existing system, prior to

the creation of the Directorate, had been able to effectively deal with the applications filed, it was felt that the creation of a Directorate General would expedite the process. The last four years have seen an increase in the number of applications filed by the domestic industry. The increase in the number of applications could be attributed to the fact that in the last four years, along with the removal of quantitative restrictions in a large number of products, there has been a considerable decline in customs duties.

The Anti-Dumping Directorate is headed by the Designated Authority, who is a Quasi-Judicial Authority notified under the Customs Act. The Designated Authority is assisted by eight Investigating Officers, which includes technical personnel, such as Cost Accountants. Since 1994 till date, imposition of final duties or definitive anti-dumping duties has been recommended in as many as 29 cases. In fact, between 1998 and till 22/1/99, the Designated Authority has recommended imposition of final duties in 14 cases and reviewed two cases. Provisional duties have been recommended in five cases and action has been initiated for anti-dumping investigation in 11 cases and review of four cases. Detailed position is given in the attached tables overleaf.

It is not true that the time taken in completing anti-dumping cases in India is unduly high in comparison with the time taken in countries like the US or EU. Under the anti-dumping rules, once investigations are initiated, the Designated Authority should submit its findings to the government within one year from the date of initiation of the proceedings. In exceptional circumstances, the period of one year may be extended by a further 6 months. Certain procedures have to be followed so as to make the whole exercise transparent. The normal time taken to impose provisional duties in India is around 7 months, which compares favourably with the time taken in Europe. The Anti-dumping Directorate under the Ministry of Commerce has now also been strengthened and the effort is to further reduce the time taken.

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\* "GATT 1994" is the amended and updated version of "GATT 1947" and is an integral part of the WTO Agreement. GATT 1994 continues to provide the key disciplines governing international trade in goods, even though GATT 1947 ceased to exist in 1995 being replaced by the WTO.

## Status of Anti-dumping Cases by India

### Cases where definitive (final) Anti-dumping duties imposed

Product	Country	Range of Duty Imposed (Rs. per unit)	Date of Imposition
1. PVC Resin*	Brazil, Mexico, Korea RP, USA	2036/MT 619/MT 1253/MT 504/MT	18.01.1994
2. Bisphenol-A.**	Japan	7477/MT	11.03.1994
3. Potassium Permanganate	China PR	5992/MT	05.09.1995
4. Isobutyl Benzene \$	China PR	10634/MT	31.08.1995
5. 3,4,5 Trimethoxy Benzaldehyde (TMBA)	China PR	237/Kg.	20.10.1995
6. Theophylline Caffeine	China PR	108/Kg. 101/Kg.	20.10.1995
7. Acrylonitrile Butadiene Rubber (NBR)	Japan	19306/MT	14.11.1995
8. Bisphenol-A	Brazil Russia	10263/MY 12559/MT	26.12.1995
9. Sodium Ferrocyanide	China PR	16358/MT to 20287/MT	20.12.1996
10. Dead Burnt Magnesite (DBM)	China PR	1333/MT to 1925/MT	20.12.1996
11. Low Carbon Ferro Chrome (LCFC)	Russia Kazakhstan	10900 to 18600/MT 18500/MT	20.12.1996
12. 8-Hydroxyquinoline	China PR	183/kg to 206/kg	01.04.1997
13. Bisphenol-A	USA	10,000/MT	29.04.1997
14. Acrylonitrile Butadiene	Germany, Korea	13255/MT	30.07.1997
15. Acrylic Fibres	USA, Thailand, Korea RP	6.30 to 422.93 per kg.	24.10.1997
16. Catalysts	Denmark	21.24-1922.01 per ltr.	02.02.1998
17. Graphite Electrodes	***	5517-30997 pmt.	05.05.1998
18. Newsprint	USA, Canada, Russia	reference price 22958-26696 pmt	\$
19. PTA	Thailand, Korea RP, Indonesia	1130-3375 pmt	28.04.1998
20. Vitamin-C	Japan, China PR	27.59-61.96 per kg.	24.07.1998
21. Magnesium	China PR	Rs. 157008 pmt reference price	22.10.1998
22. Metallurgical Coke	China PR	Rs. 4673 reference price subject to min. of Rs. 692 pmt	27.10.1998
23. Polystyrene	Korea RP, Japan, Taiwan, Malaysia	Rs. 1963 to 13493 pmt	17.11.1998
24. Hot Rolled Coils, Sheets, Plates, Strips	Russia, Ukraine, Kazakhstan,	Rs. 14300-22000 pmt	27.11.1998
25. Ortho Chloro Benzaldehyde	China	Rs. 200.21 per kg \$	
26. Lovastatinq	China	Rs. 191869 per kg \$	
27. Acrylic Fibre	Japan, Spain, Italy and Portugal	Rs. 74.22-81.36	22.1.1999
28. Calcium Carbide	China, Romania	Rs. 499/MT and Rs. 873/MT res. \$	
29. Fused Magnesia	China	Rs. 390-Rs. 994/MT S	

\* Duties recommended to be discontinued on 23.12.1997 after review.

\$ Duty not yet levied by Ministry of Finance

\*\*\* USA, China, Spain, Italy, Germany, Belgium, Austria, France

\$\$ Definitive duty not yet levied by Ministry of Finance. However, provisional duties are in force

### Cases recommended for provisional duties and investigation in progress

Product	Country Initiation	Date of date	Recommendation Recommended (Rs. per unit)	Quantum of Duty
1. Citric Acid	China PR	18.03.98	20.10.98	Rs. 58925 pmt
2. Industrial Sewing Needles***	China, Korea, Japan	16.01.98	01.12.98	Rs. 126-1924/000 Needles
3. EPDM	Japan	20.05.98	24.12.98	Rs. 101716-114446
4. PTBC	France	19.2.98	26.12.98	Rs. 320.71 reference price subject to minimum of Rs. 36.99/kg.
5. SBR	Japan, Korea RP, Turkey, China, U.S.A.	7.4.98	21.1.99	Rs. 0.92-8.26/kg.

### Cases under investigation for provisional duties

Product	Date of Initiation	Country
1. Photographic paper	07.05.98	UK, Germany
2. Hard Ferrite Ring Magnetics	24.07.1998	China PR
3. Acrylic Fibre	30.07.1998	Mexico
4. Low Carbon Ferro Chrome	9.12.98	China, South Africa, Macedonia
5. PSF	25.1.99	Indonesia, Korea Rep., Thailand and Taiwan.
6. PTFE	22.1.99	Russia, Ukraine, FRG

\*\*\*\*\* Germany, Korea RP, China PR, Japan & Czech. Republic

++ Japan, Korea RP, Turkey, China, Taiwan, USA, Germany, France

### Review cases

Product	Country	Date of Initiation
1. NBR	Japan	12.05.98
2. 3,4,5 TMBA	China PR	12.05.98
3. Bisphenol-A	Russia, Brazil	12.05.98
4. Acrylic Fibre	Thailand	14.07.98

(As on 12/2/99)

# G-15 Summit - A Common Perspective

## Montego Bay, Jamaica (10-12 February 1999)

The 9th Summit of the Heads of State and Governments of the Group of Fifteen (G-15), held at Montego Bay, Jamaica on 10-12 February 1999, underlined the solidarity and commitment of G-15 member countries to promoting growth, employment and general welfare. In a Joint Communiqué issued at the end of the Summit, the participants recognised that only through a community of interests between the developed and developing countries could this be achieved so as to shape a just and equitable global economy. The Communiqué underlined a common perspective among member countries on WTO-related issues.

Excerpts relating to WTO from the G-15 Joint Communiqué, issued at Montego Bay, Jamaica on 12th February 1999 :

“We reaffirm the importance of a transparent, fair and equitable rule-based multilateral trading system under the WTO, effectively integrating all countries and leading to the realisation of the objectives of raising standards of living, ensuring full employment and steadily growing volume of real income and effective demand, and expanding trade in goods and services. To this end, we reiterate again, that unilateral measures with extra-territorial effects are incompatible with the multilateral trading system and threaten to undermine it.

We agree to continue our participation in the WTO in the implementation of its current work programme and the ongoing discussions and consultations leading up to the Third Ministerial Conference later this year, when we will join in deciding on its future work programme, including further liberalisation sufficiently broad-based to respond to the concerns and interests of developing countries. We will consult with our trading partners in the WTO, as the preparatory process unfolds, keeping the following principles in mind, *inter-alia*:

— the legitimacy of the development objectives of developing countries and consequently, the need to preserve economic spaces within the multilateral trading system to implement market-oriented development policies, as well as the need for

the full implementation of the special and differential provisions in all spheres provided for in the Agreements, as deliberated at the recent G-15 Symposium on Special and Differential Treatment for Developing Countries in the Uruguay Round Agreements;

— the importance of redressing the difficulties faced by developing countries in the implementation of the WTO Agreements to enable them to participate more effectively in the multilateral trading system;

— the lack of implementation or non-fulfilment of obligations of the Uruguay Round Agreements by developed countries cannot be used by them as bargaining instruments for obtaining further concessions from developing countries.

Labour standards shall continue to be set and dealt with within the ILO. We reaffirm our opposition to its inclusion in the WTO work programme. The label “trade-related” shall not be used as pretext for the establishment of standards in one institution and their enforcement in the WTO or any other institutional framework.

The relationship between trade and environment is an important and complex issue that requires further analysis. We support the ongoing analytical work on clarifying the relationship between trade and environment in several institutions. This work should continue. We oppose the use of trade measures for achieving environmental objectives and vice-versa, and disguised protectionist measures by developed countries on the grounds of “multifunctionality” in trade sectors.

We welcome India’s offer to host a meeting of G-15 countries, at an appropriate level, in preparation for the Third WTO Ministerial Conference. We welcome the further proposals taken to strengthen cooperation among developing countries, particularly the projects being implemented among G-15 countries”.

# Free Trade Agreement with Sri Lanka : Salient Features

Since the coming into force of the SAPTA (SAARC Preferential Trade Arrangement) Agreement in December 1995, three Rounds of Negotiations have been concluded. The negotiations are aimed at gradual progress in elimination of tariffs with the objective of reaching SAFTA (SAARC Free Trade Area) as soon as possible. The SAARC Summit held in July 1998 in Colombo affirmed the commitment to conclude the Agreement for SAFTA by 2001 AD.

In his speech in the July 1998 Summit of SAARC, the Prime Minister, Atal Behari Vajpayee had indicated that India would be willing to consider entering into bilateral free trade agreements with SAARC countries which were interested in moving faster towards trade liberalisation. There was a quick response from Sri Lanka to this offer and the negotiations led to the signing of the Free Trade Agreement between India and Sri Lanka on 28th December 1998.

The Agreement provides for exchange of tariff concessions with an agreed phase out schedule of three years for India and eight years for Sri Lanka. The two sides will maintain Negative Lists of items on which no tariff concessions will be exchanged for the present. The Agreement also provides for 100% tariff concessions upfront on some items by both sides.

Separate Rules of Origin have been negotiated and these form an integral part of the Agreement. The domestic value-addition requirement has been kept at 35% with the provision that in case the raw material is sourced from each other's country, the domestic value addition requirement will be 25% within the overall limit of 35%. The goods imported must satisfy the criterion of 'Substantial Transformation' .

A Joint Committee has been established at the Ministerial level to review the implementation of the Agreement. The Agreement also provides for establishment of a Working Group of Customs to facilitate cooperation in custom matters. Disputes of a commercial nature are to be settled through designated business chambers and by an Arbitral Tribunal.

The Agreement is proposed to be notified to the WTO under the Enabling Clause. The lists of items on which concessions are to be exchanged as well as the Negative Lists are to be exchanged within 60 days of the signing of the Agreement. The Agreement shall enter into force 30 days after the Contracting Parties have notified to each other regarding the completion of the respective constitutional requirements.

## The logic of Trade Liberalisation

“How does trade liberalisation improve living standards? First, it encourages specialisation and so shifts labour and investment from less efficient to more efficient uses. Second, it enhances efficiency stimulating competition with the best in the world. Third, it enables firms to reap economies of scale by providing access to markets beyond the limited home market. Fourth, being exposed to world trade is a powerful way of acquiring knowledge about the latest ideas, technologies and market patterns”.

(Swaminathan S. Aiyar)

## Quotes & Excerpts

"The expectations raised by the Uruguay Round have unfortunately not been realised. Meaningful market access is still to accrue in areas like textiles or agriculture, to name only two areas. We, however, see a resurgence in protectionism in the form of anti-dumping, safeguards and other actions. There are also some unilateral trade measures which are hurting us. For the services negotiations our objective should be to achieve substantial liberalisation in sectors of interest to developing countries as also regarding movement of natural persons. All these and other issues could also be looked at in the preparatory meeting that we have offered to host before the Third WTO Ministerial meeting".

(Excerpts from Prime Minister Atal Bihari Vajpayee's intervention at the G-15 Summit at Montego Bay in Jamaica on 15 February, 1999)

"The Marrakesh agreements by themselves are one sided. Because of the superior economic might of the developed world, the developed world through these agreements have managed to have the right to retain quotas for textiles and clothing items and to maintain huge subsidies for agricultural items thus effectively shutting out competition and fair market access to the developing countries in these two sectors in which developing countries could be somewhat competitive. Because of today's tough competitive situation, if further obstructions are placed on world trade, the developing world will lose whatever little confidence they have in the multilateral trading system, especially in the equality of the system. There is, therefore, great responsibility on part of the developed world to ensure that fairness and transparency of multilateral trading system is not sullied and jeopardised".

(Commerce Minister Ramakrishna Hegde, at the 6th India-Australia Joint Ministerial Commission, New Delhi, 26 February, 1999)

"Leaving aside the magnitude of the EMR problem, the question still remains whether it is better to go in for the product patent system straight away as we are required to accept product patent applications from 1 January 1995 and grant patents on that basis. Thailand and China preferred this option and amended their laws in 1992 itself to allow product patents in food, pharmaceutical and chemical sectors. (China also allowed patenting of micro-organisms). The Latin American countries also have followed this route. Since they had amended their laws in this manner prior to the coming into force of the TRIPS Agreement (i.e 1 January 1995), they do not have to apply Articles 70.8 and 70.9. This does not mean that they do not give exclusive marketing rights to patent owners. The patent rights would automatically include EMR and all the other rights associated with a product patent".

(Excerpts from the discussion paper by A.V.Ganesan on the implications of the Patents (Amendment) Ordinance 1999-- February 1999)

"We should renegotiate the tariff-bindings and the use of Special Safeguards, and push aggressively for the liberalisation of agricultural trade. Imports, if at all, can be handled through anti-dumping duties, countervailing duties (for subsidised exports), and safeguards... that is our optimal strategy."

(Bibek Debroy, Director, Rajiv Gandhi Institute for Contemporary Studies)

## **Schedule of Meetings at the WTO, Geneva : March 99 \***

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02.03.1999	:	Committee on Trade and Development
03.03.1999	:	Committee on Budget, Finance & Administration
05.03.1999	:	Working Party on Preshipment Inspection
10-11.03.99	:	Committee on Sanitary and Phytosanitary Measures
15.03.1999	:	Committee on Trade-Related Investment Measures
16.03.1999	:	Sub-Committee on Least-developed Countries
16.03.1999	:	Committee on Market Access
16.03.1999	:	Committee on Trade in Financial Services
18-019.03.99	:	Committee on Agriculture
22-23.03.99	:	Council for Trade in Services
23.03.1999	:	Council for Trade in Goods
24-25.03.99	:	Committee on Trade and Environment
24.03.1999	:	Committee of Participants on the Expansion of Trade in Information Technology Products
25.03.1999	:	Working Party on Professional Services
25.03.1999	:	Dispute Settlement Body

*\* (Source : WTO as on 26/02/99)*

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