

CHAPTER - 25

WORLD TRADE AGREEMENT

The Uruguay Round of multilateral trade talks leading to World Trade Agreement (WTA) concluded in 1994 after eight years of negotiations was a land mark in the history of the trading system. Agriculture and textiles and clothing, two sectors that had been removed from the GATT were brought back. The system of multilateral rules was extended to intellectual property rights and services. The WTO was created on January 1, 1995 by the Final Act of the Uruguay Round of negotiations.

25.2 The World Trade Agreement (WTA) contains 29 individual legal texts and more than 23 additional Ministerial declarations, decisions and understandings which spell out further obligations and commitments for WTO members (Appendix-25.1) The WTO replaced GATT as an international organisation in 1995. As on 31st October 2004, it had 148 members. A synoptic brief about WTO is presented in Box -25.1.

Some of the major agreements and issues are shown below.

Agreement on Agriculture (AoA)

25.3 The WTO Agreement on Agriculture was a significant step towards reforming agricultural trade. It brought agricultural products under multilateral rules and paved the way for further liberalisation of agricultural trade. The Doha Ministerial Declaration of 2001 launched new negotiations on a range of subjects. The key components of Agreement on Agriculture (AoA) are shown in Appendix-25.2

25.4 The Uruguay Round Agreement on Agriculture 'tariffed' and bound many non-tariff barriers and some progress was made in reducing tariffs. However much remains to be done including reducing peak tariffs and tariff escalation.

BOX-25.1

WTO - A Synoptic brief

Planners for the post Second World War reconstruction and economic co-operation set up the International Trade Organisation (ITO) to oversee the operation of a multilateral code of conduct of trade. The 1947 Geneva trade conference resulted in a trade accord - the GATT 1947 - signed by 23 countries. The combined package of trade rules and tariff concessions became known as the General Agreement on Tariffs and Trade (GATT). The first round negotiations in 1947 resulted in 45,000 tariff concessions affecting \$ 10 billion of world trade.

After almost half a century, the GATT's basic legal principles remained much as they were in 1948. There were additions in the form of a section on development added in the 1960s and plurilateral agreements in the 1970s efforts to reduce tariffs further continued. Much of this was achieved through a series of multilateral trade negotiations known as trade rounds. The Tokyo Round during the seventies was the first major attempt to tackle trade barriers that do not take the form of tariffs and to improve the system. The Uruguay Round of 1986-94 - the eighth round at Punta del Este, Uruguay was the last and most extensive of all. It led to the establishment of WTO and a new World Trade Agreement (WTA) as on 1st January 1995. On 15th April 1994, the deal was signed by Trade Ministers of 123 participating countries at a meeting in Marrakesh, Morocco.

The WTO replaced GATT as an international organisation, but the General Agreement still exists as the WTO's Umbrella treaty for trade in goods, updated as a result of the Uruguay Round negotiations. GATT has been relegated to the status of one of the 13 Multilateral Agreements on Trade in goods included in Annex 1 A of WTA.

WTA is much wider in scope with a stronger institutional basis and with treaty status, compared to GATT. The WTA consists of the Agreement establishing the WTO and its four Annexure (see Appendix)

The apex decision making body of the WTO is the Ministerial Conference. There is a General Council below the Ministerial Conference. Under the General Council, there are three councils for trade in Goods, Services and TRIPS. The General Agreement on Trade in Services (GATS) is the first set of multilaterally agreed and legally enforceable rules and disciplines ever negotiated to cover international trade in services.

25.5 The structure of border protection in developed countries continues to be high, non-transparent and anti development. About 28 percent of domestic production of OECD countries is protected by Tariff Rate Quotas (TRQs). tariff peaks as high as 500 per cent confront imports from developing countries. Tariffs also increase by degree of processing, creating a highly escalating tariff structure that limits access for processed foods.

25.6 In many industrial countries, the average income of farmers is higher than the national average, reaching almost 250 per cent of average income for the Netherlands, 175 per cent for Denmark, 160 per cent for France and 110 per cent for the United States and Japan. The average agricultural tariff of developing countries declined from almost 30 percent in 1990 to about 18 per cent in 2000, a decline of 35 per cent. An extensive network of subsidies has evolved to support agriculture particularly in rich countries. The support accorded to OECD country producers through higher domestic prices and direct production subsidies was \$ 248 billion in 1999-2001. Protection rates for producers in the OECD decreased from 62.5 per cent in 1986-88 to 49 per cent in 1999-01. Agricultural support tends to be counter cyclical in rich countries, pushing price adjustments into the global market and accentuating price drops. In European Union farmers prices were 34 per cent higher than the international prices in 1999-01.

25.7 The Uruguay Round and World Trade Agreement yielded no significant reduction in protection in developed countries. The reason includes weaknesses in specific aspects of the agreement such as high baseline support levels from which reductions were made. In US, measures undertaken before the negotiations were adequate to fulfil the new rules on reducing domestic support. Now protection in agriculture takes different forms, like tariff protection, subsidies, tariff peaks, Tariff Rate Quotas (TRQ), tariff escalation and opaque tariffs.

25.8 Some countries used the simple border

protection method of tariffs while other methods used were more complicated such as EU variable levy system. This system maintained a stable price within the EU by using the same post customs duty price for all imports.

25.9 Tariffs in agriculture are still significant, even high in some producing areas. (Table-25.1)

25.10 The World Trade Agreement contains a

Table-25.1
Bound and applied tariffs on agricultural products (per cent)

Group	MFN bound tariff	Applied tariff
Developed countries	51	48
Developing countries	57	20
Least developed countries	79	17

Source: UNCTAD, 2004

definition of agricultural products which includes a number of manufactured products as well, such as manufactured food products. At the same time, the definition excludes fish and fish products and natural rubber, which are grouped under industrial products.

25.11. The total of Green and Amber box supports in the OECD countries was higher in 1996 in nominal terms (US\$ 259 billion) than during the base period (US\$ 221 billion) The total transfers to agriculture in OECD amounted to \$ 327 billion in 2000 compared to \$ 298 billion in 1986-88 and exceeded the value of world trade in agricultural products. It is in this background that developing countries took their stand at Doha and Cancun

25.12 The specific implications in agriculture and strategies to be adopted in Kerala were explained in the report of the Commission on WTO concerns submitted by Dr. M.S. Swaminathan in 2003. The state government has taken steps for the implementation of the major recommendations of the Commission. A Virtual University on Agrarian prosperity was set up in 2003-04 by the Kerala Agricultural University in collaboration with the Indian Institute of Information Technology Management, Kerala.

Tariff escalations and tariff peaks

25.13 Tariff escalation hinders diversification into value added and processed products in which

trade is expanding rapidly, but such escalation directly penalises investors in developing countries who seek to add value to production for export. For example the EU applied tariff is 18 per cent for fresh grapes but 215 per cent for grape juice.

teas are very low or even zero. Value addition is significant in international trade. Tariff peaks defined as rates exceeding 15 per cent of three times the average nominal tariff. In some of the commodities in European countries tariff peaks in some commodities are very high affecting the export from developing countries.

25.14. Current tariff levels for value added teas are higher in major markets while those for bulk

BOX-25.2

Trade policies of the European Union for fresh fruit and Vegetables

Before the AoA, external protection to EU producers of all Fruit and vegetables was obtained by means of tariffs. Imports of the main products were also subject to reference prices. When the import prices of products originated from non-EU countries fell below the reference prices, they were also subject to the payment of countervailing duty. The extra duty was only charged on imports from that country. Reference prices were worked on minimum import prices.

The AoA eliminated all Non Tariff Barriers (NTBs) such as reference prices. In Fruit and vegetables, reference price was replaced with entry prices. If the import price of a product is above the entry price, it only pays the tariff. When the import price is lower than the entry price by a percentage no greater than 8%, the import incurs an extra duty whose amount is equal to the difference between the entry price and the import price. If the percent exceed 8%, the extra duty is the maximum tariff equivalent (MTE). Tariffs, entry prices, and MTEs change during the year according to the seasonality of EU production. For many Fruit and vegetable products the entry prices operate only for a limited period when internal supply is marketed. The amount of MTEs is so high that it can be seen on a prohibitive tariff.

Entry prices works on consignment basis. The EU Commission calculates on a daily basis a standard import value for every Fruit and vegetable production subject to entry price according to its origin.

Skimmed Milk Powder

33rd Dairy industry Conference has recommended that India should renegotiate at the WTO the bound rate of import duty on Skimmed Milk Powder (SMP) and butter oil. Efforts should be made to raise to 100%. At present the bound rates are 60% for SMP and 40% for butter oil.

Domestic dairy industry should pay attention for improving the quality of milk and milk products right from primary production to finished products stage. The industry should adopt ISO-HACCP quality management approach to achieve this objective. It underscored the need for investment in productivity enhancement and cost reduction for long term competitiveness.

It has identified the South Asian Countries and the Pockets of ethnic Indian Population in the Gulf region and the US as the priority destination for the Indian dairy product export.

Issues in Fisheries

1. Subsidies in fisheries

25.15 Subsidy reform in the fisheries sub sector forms part of the multilateral trade negotiations agreed by the members at the Fourth Ministerial Conference held at Doha. Significant work on the relationship between fisheries subsidies and overfishing has been done by various international organisations in recent years.

25.16 Most of the literature on subsidies in fisheries focuses on marine capture fisheries rather than aquaculture. The Doha Agenda is especially concerned with the use of subsidies in fisheries and members of the OECD account for at least 15 per cent of all subsidies in the fishing sector. WWF (2001) estimates global subsidies to be in the region of \$ US 15 billion to cover all fishermen. The subsidies in developing countries include port facilities owned and managed by public sector, sales tax exceptions for imports used by the fishing industry, subsidised fishing inputs etc.

25.17 The last two years has seen a great deal of effort being devoted to defining fisheries subsidies and developing framework for categorizing and measuring subsidies. The WTO provides an internationally agreed process for notifying fisheries subsidies, although the extent to which this has complied with is open to question. Article 25 of the WTO , SCM Agreement provides for notification of specific subsidies. More international work is needed to develop broadly accepted definition of subsidies and methodologies for measurement.

2. SPS measures

25.18 The SPS measures introduced (eg. Shrimp Ban from Bangladesh, Nile Perch Ban for Uganda, Ban in European Union for some shipments from India etc.) represent major shocks for fish exporting developing countries.

25.19 A large number of countries now have specific Hazard Analysis and Critical Control Point (HACCP) based regulations regarding the safety of fish products.

25.20 A recent study in India has shown that

installation cost of HACCP plants varies from Rs. 10 million to Rs. 25 million. On an average an export processing firm has to spend about Rs. 2 million/year to maintain HACCP system. On an average HACCP implementation has led to Pre export and handling cost of Rs. 7 per kg. Small firm has to incur Rs. 10 /kg. on pre export processing of fish. State has to move towards international standards of product hygiene in order to retain the market share in future which entails heavy investment.

The Sanitary and Phytosanitary (SPS) Agreement

25.21 The SPS Agreement is linked to the Agreement on Agriculture (AoA). The SPS Agreement contains specific rules for countries which want to restrict trade to ensure safety and the protection of human life from plant or animal carried diseases. These include the setting of technical regulations and standards governing quality requirements for food, and phytosanitary measures to protect animal and plant life and health.

25.22 SPS Agreement encourages members to use international standards, guidelines and recommendations where they exist.

Some important elements in the Agreement

- (a) Requires animals and animal products to come from disease free areas
- (b) Inspection of products for microbiological contaminants
- (c) Mandating a specific fumigation treatment for products
- (d) Setting maximum allowable levels of pesticide residues in food.

25.23 The SPS norms in US differ from that in EU to a great extent. The permissible limit for total aflatoxin in food and feed is 20 ppb in US and Australia while in EU it is 1 ppb. The EU norms are higher than the Codex norms. Even EU member countries follow their own norms which vary greatly. Though Codex standards are considered as base, the norm set by the importing countries matters most in disputes.

25.24 The SPS norms are gradually emerging as trade barriers. The developing countries need to actually participate in global standard setting bodies. Expert groups of scientists, and food technologists should be identified and database has to be created with associated infrastructure. The SPS and TBT agreements contain promises of financial and technical assistance for the developing countries. However, translating these promises into action has not yet been achieved. Further conforming to EU and other norms entails massive investments in Hazard Analysis and Critical Control Points (HACCP) methods which are capital intensive.

25.25 Developing countries in general are experiencing difficulties in meeting the SPS requirements of developed countries and concerns have been expressed about the way in which SPS agreement has been implemented. The additional cost involved include increase in production costs of respecting SPS requirements and conformity costs like Certification and control. The access to technical know-how is also restricted and even the Private sector certification is under developed.

25.26 Major findings of a study on coffee farms conducted in Karnataka are shown in Box-25.3. Out of 282 farms surveyed, 149 are SPS complying farms. Partial financial support could speed up adoption of SPS norms by the farms.

BOX-25.3**Major Findings of a Study on SPS in Coffee**

- SPS complying farms experienced an increase in labour input per unit of land. The mandays per hectare was 575 for non-SPS complying units and 878 for SPS complying units.
- SPS complying farms experienced 43% increase in labour costs over non-SPS complying coffee farms in pre harvest operations. The increase experienced by these farms in the matter of harvesting operations was 33%.
- The full SPS compliant farms included in the sample uprooted 90% of their old coffee plants and partial SPS compliant units undertook only non-replanting based SPS measures.
- The incremental costs and cash crunch faced by SPS complying farms increased the risk of non-repayment of loans.

Source: Damodaran, 2002

Pesticide Residues

25.27 Fixation of Maximum Residue Limits (MRL) in food and commodities are prescribed by the Ministry of Health and Family Welfare under PFA Act . MRL is fixed by taking into account the toxicological data of the pesticides. For about 32 pesticides, tolerance limits are to be fixed. This has to be done on a priority basis. The findings of a study on pesticide residues conducted in various states including Kerala are shown in Box-25.4.

BOX-25.4**Major Findings of the Research Study on pesticide residues in agricultural produce**

The Indian Council of Agricultural Research (ICAR) is undertaking an All India Network Project (AINP) on pesticide residue. In Kerala, the project functions under the Department of Agricultural Entomology, College of Agriculture, Vellayani. The Major findings of the studies conducted in the different centres of AINP on Pesticide Residues during 2003 are :

- Out of the total 666 different vegetable samples analysed by multi residue method, 56.5% samples were contaminated with residues of different groups of insecticides like organichlorines, organophosphates and synthetic pyrethroides.
- The main contaminants identified were Endosulphan, Cypermethrin, Cyhalothrine, Fenvalerate, Chlorpyrifos, DDVP, Phorate and Lindane.
- Among different states, maximum contamination was observed in Uttar Pradesh and Delhi, where all the samples analyzed were contaminated.
- Samples contaminated above the tolerance limit/maximum residue limit were more in Punjab (30%) and Karnataka (20%)
- Extent of contamination was low in fruit samples compared to vegetables. Among 317 fruit samples viz mango, orange, grapes and apple, pesticide residues were detected in 37% of samples. Extent of contamination was

maximum in Andhra Pradesh (78.3%) and Bihar (56.3%).

➤ Analysis of market samples of commonly used vegetables in Kerala, viz. Cowpea, Amaranthus, Cucurbits, Brinjal, Bhindi, Tomato, Cauliflower, Capsicum, Green Chillies, Bittergourd and snake guard indicated that 96.7% of the samples were contaminated with residues of insecticides belonging to organochlorides, organophosphates and systemic pyrethroid groups.

➤ In the samples above, residues of banned/restricted pesticides such as HCH were also detected.

➤ Monitoring of fruit samples revealed that mango, banana, grapes apple, and pomegranate collected from Thiruvananthapuram were not contaminated with insecticidal residues.

➤ Studies on the extent of removal of residues by some house hold practices revealed that washing the vegetables thoroughly along with scrubbing in tap water followed by cooking can remove pesticide residue up to 71%. Other decontamination techniques like dipping and washing in tamarind water, turmeric suspension, lime water, salt water, vinegar, peeling, cooking, sun drying, dehydration etc. can also be adopted

Source: Kerala Calling, October 2004

25.28 State has already taken steps to establish disease free zone for cattle modernisation of agriculture through the establishment of laboratories, popularisation of organic farming etc.

Issues

1. The SPS Agreement encourages the use of **Equivalence** and mutual recognition of Agreements in Article 4. Developing countries frequently complained about the lack of implementation of Article 4. Some of the importing countries are demanding **sameness** instead of equivalence. The former implying that the measures must be identical not only in outcome but in formulation too which is unacceptable.
2. The infrastructure support as well as technical competency in developing

countries are quite inadequate

3. One of the main problems of the various SPS measures applied today is the lack of transparency.
4. The dispute settlement process is lengthy and very demanding in terms of financial capacity and human resources.
5. Developing countries may end up with standards set at levels inappropriate to their situation and which require standards infrastructure which simply does not exist in these countries. As pointed out by a World Bank study, the various standards already set in the international organizations were not developed as part of the WTO process and left out the developing countries.
6. Likewise standards will be slow to develop in areas where developed countries have few interests like lack of international standards for pesticide residues for tropical fruits.
7. Very high investment for establishing the infrastructure for quality control

Agreement on Rules of Origin (ARO)

25.29 The raw materials produced in one country are moved to another for processing and to yet another as an export product. Imported low quality pepper and tea are reported to be blended with Indian varieties and exported as Indian varieties. The provisions in the rules for such products with multi country origin need be enforced strictly to protect Kerala's traditional markets, especially for tea, coffee and pepper. Consumer Ministry's recent stipulation of multi country origin declaration mandated for tea should be extended to other commodities also. This is more urgent for protecting Kerala's market share especially in spices in the international market.

25.30 The Agreement is important in the textiles sub sector also. Rule of origin can be designated to shut out textile imports by requiring that all intermediary inputs originate among member states of a free trade area. If preferential trade agreements continue to proliferate and make use of restrictive rules of origin in Textiles and Apparel

then the elimination of quota will deliver smaller benefits to Asian Pacific developing countries suppliers.

25.31 Eventhough India challenged the rule of origin of US on textiles and apparels, the judgement of the WTO panel was against India. Systematic monitoring of import of various commodities as well as rules in exporting countries are essential to present the case before the Dispute settlement body.

Trade Related Intellectual Property Rights (TRIPS)

25.32 Trade Related Aspects of Intellectual Property Rights Agreement (TRIPS) was incorporated as one of the core agreements. All the IPR instruments, viz., patent, copyrights, trademarks, geographical indications, industrial designs and trade secrets are covered under TRIPS. The plant varieties must be protected by patents or by a *sui generis* system. The TRIPS Agreement is a comprehensive multilateral agreement on intellectual property. The agreement sets minimum standards of national protection of intellectual property rights for all categories except for expression of folklore, utility models, breeder's rights and community s rights to traditional knowledge.

25.33 A Council for TRIPS was established to monitor the operation of the agreement and government's compliance with it. No provision is included in TRIPS about IPR related to internet data transmission and e-commerce. Assessment of national IPR laws should be undertaken in order to consider their consistency with the standard of TRIPS Agreement. The salient features of TRIPS as compared to previous international co-operation treaties in IPRs such as those managed by WIPO is that it makes an extensive set of IPR Protection Standards mandatory for WTO members. The agreement explicitly maintain three organizations that are involved in setting standards. The Codex Alimentarius, the International Office of Epizootic (OIE) and the International Plant Protection Convention (IPPC).

25.34 TRIPS figured prominently in the Doha WTO Ministerial meeting in November 2001 and resulted in the Doha Declaration on the TRIPS Agreement and Public Health. Patent protection

is likely to lead to higher prices of drugs. The public health aspects of TRIPS requirement have yet to be fully assessed. TRIPS rules require WTO members to provide patent protection for any invention, whether a product (such as a medicine) or a process (such as method of production of chemical ingredients for a medicine) for a period of 20 years.

25.35 The Doha Declaration mandated that the Council for TRIPS examine the relationship between TRIPS, the Convention on Biological Diversity (CBD) and the protection of traditional knowledge and folklore.

25.36 Consideration should be given to the possible impact of the adoption of patents and plant breeders rights on biodiveristy. Several studies have suggested that such regimes may reduce biodiversity particularly through the replacement of farmers varieties by commercial uniform varieties.

25.37 TRIPS agreement provides for a minimum term of protection of 20 years counted from the date of filing. A bill to amend the Patent Act 1970 was introduced in Parliament on 20 December 1999. The Act was amended in 1999 and 2002 to meet India's obligations under TRIPS. The third Amendment bill was put in place for introducing product Patent regime in the last session and it was lapsed with the change of Government. To meet WTO commitment, India has brought in an ordinance to support the product patent regime in December 2004. The Ordinance of 26th December 2004 paved the way for product patent for inventions in the fields of food, chemicals and pharmaceuticals.

25.38 TRIPS agreement provides a higher level of protection to wines and spirits and India has proposed to extend such higher level of protection to basmati rice, Darjeeling tea, alphonso mango, kolhapuri slippers etc.

25.39 In the area of agriculture, an important policy issue is the extent to which the protection of plant varieties as required by the TRIPS Agreement which may hinder or foster local innovations while some countries have opted to follow the model of the International Union for the Protection of New Varieties of Plants (UPOV); New approaches may also be

developed in the form of *Sui generis* system. The development of a *sui generis* system for the protection of traditional knowledge including farmer's varieties is an important policy issue. The protection of plant varieties is legally introduced in the country by Protection of Plant Varieties and Farmers' Rights Act 2001 (PPVFR Act).

Traditional Knowledge (TK)

25.40 Indigenous Knowledge (TK) has been used for centuries by indigenous and local communities. Despite the growing recognition of Indigenous Knowledge as a valuable source of knowledge, western intellectual property laws continues to treat it as a component of Public domain.

25.41 The importance of IK has gained recognition in International fora. Thus, in 1981, a WIPO - UNESCO Model Law on Folklore was adopted. In 1992, the Convention on Biological Diversity specifically addressed the issue. In 2000, an intergovernmental committee on Intellectual Property and Genetic Resources, Indigenous Knowledge and Folklore was established under the auspices of WIPO. A large number of patents have been granted on genetic resources and knowledge obtained from developing countries without the consent of the possessors of the resources and knowledge. The CSIR asked for a reexamination of the patent granted for the Wound Healing property of turmeric. The US patent and Trademark office revoked this patent. In 2000, the patent granted to WR Greece Company and USDA on bio pesticide property of Neem was also revoked.

25.42 The global market for herbal products is expanding very fast. It is estimated to touch \$ 5 billion by 2020. China and India are major sources of medicinal plants. Local tribal communities have the exclusive rights of collecting Non-timber forest produce (NTFP) like nuts, flower, gum, resins, medicinal and aromatic plants, honey, wax etc. Action plan has to be prepared to exploit the market with appropriate protection of traditional knowledge.

25.43 The importance of protecting the knowledge innovations and practices of indigenous and local communities is increasingly recognized in the international forums. Developing countries

seek to ensure that the benefits of consultative innovation associated with TK accrue to its holders while enhancing their socio economic development. Protection of TK is a necessary but not a sufficient requirement for its preservation and further development. Developing institutional and consultative mechanism on TK protection , innovation and facilitating TK based products marketing and commercialization of TK based products are also important

25.44 Preparation of village wise community Bio diversity Registers has been undertaken in some panchayats in Kerala. The Traditional Knowledge Digital Database (TKDL) project has been initiated at Government of India level. TKDL is based on software which facilitates classification of traditional knowledge. making it compatible with international patent classification. In India, a National Innovation Foundation has been set up. This foundation with an initial corpus of Rs. 20.00 crores is intended to build a national register of innovation, mobilize IPR protection, set up incubation centres for converting innovations into viable business opportunities. It has established four incubation centres across the country. A project on documenting IKs in the state has been initiated. This is more relevant in the context of TRIPS.

Geographical Indicators (GI)

25.45 The specific regulation covering GIs are addressed in the TRIPS Agreement. Outside the WTO negotiations many countries are negotiating GIs in bilateral trade agreements.

25.46 Since 1992, the European Union has protected high quality agricultural products based on geographical origin using designation of geographical indications.

25.47 Geographical indications especially appellations of origin, could be used to protect products of a special region like Basmati rice, Darjeeling Tea, Alphonso mango, Kolhapur slippers ,Malabar pepper, Alleppey Finger turmeric , Cochin Ginger etc.

25.48 Kerala should embark on to a major project for the protection of traditional products with geographic appellation for the exploitation in

the international market. The following steps may have to be completed for the optimum advantage for the state.

- (1) Gather information and prepare state level inventories of products which could be protected by GIs.
- (2) Prepare, set up and implement technical norms that would guarantee the quality of specific products.
- (3) Analyse the international market possibilities of national products protected by GIs.

Agreement on Textiles and Clothing (ATC)

25.49 Multi Fibre Arrangement (MFA) was created in 1974 to facilitate the process of structural adjustment in the industrial countries in the phase of rapid shift in comparative advantage in textiles and clothing production towards the developing countries. MFA provided rules for the imposition of quotas either through bilateral agreement or unilateral action. In 1994, MFA had 44 members. The Agreement on Textiles and Clothing (ATC) is a WTO Agreement and is an attempt to correct the violation of the GATT principles of nondiscrimination and transparency in respect of Multi Fibre Arrangement that governed textile trade from 1974 to 1994. The ATC provides for continuation of the former MFA quotas until the products are integrated. The agreement provides a balanced transitional programme for the progressive integration of products over a ten year period from 1995. By 1 January 2005, the sector is to be fully integrated into normal WTA rules, ending the quota system. A 10 year transition phase was allowed in four steps. In the first phase from January 1995 to December 1997, percentage of products to be brought under GATT was 6.96% per year, in the second phase from January 1998 to December 2001, it was increased to 8.7% per annum, in the third phase from January 2002 to December 2004, it was increased to 11.05% and from 1 January 2005, no quotas are allowed.

25.50 Liberalisation in Textiles and Clothing has been a key concern of the developing countries in relation to the implementation of the Uruguay Round Agreements. In March 2001, EU had

removed quotas on imports from Sri Lanka in return for it bringing down a range of tariffs and binding all its tariffs for textiles and clothing. The bilateral pact gave Sri Lanka an emerging advantage in the lucrative EU market

25.51 ATC promised to benefit exporters in Asia and the Pacific by improving Market access for exports of textiles and apparel in the large EU and US markets. However, since 1995, both the EU and the US have signed and implemented numerous Preferential Trade Agreements (PTA) including reciprocal Free Trade Agreements and non-reciprocal Preferential Arrangements such as African Growth and Opportunity Agreement. These trade agreements impose distortions on market access. In addition newly emerging exporters particularly China and Vietnam have entered global markets.

25.52 The elimination of quota and the accession of China to the WTO, means that textile and clothing trade is likely to shift toward both China and also the Indian sub continent in the **optimistic scenario**. Considering that out of US \$ 353 billion in World Textiles and Clothing exported in 2002, Asia (excluding Japan, Australia and New Zealand) accounted for 42.6 per cent. **The International Textiles and Clothing (ITC) monograph says that in abide to retain a share of textiles production and trade for their domestic industry, the US and the EU have designed methods to put the Rules of Origin to their advantage.** The distorted trade policy adopted in developed countries in textiles will have an adverse impact for the developing countries in the quota free regime. Rule of Origin can be designed to shut out textile imports by requiring that all intermediate inputs (Yarn-Ferro rule) - originate in any member states of a Free Trade Area. The North American Free Trade Area (NAFTA) adopted a rule, making it more difficult for competitive East Asian Suppliers of textile intermediate production to access the North American Market. If Preferential Trade Agreements continue to proliferate and make use of restrictive Rule of Origin in textile and apparel (as is highly likely) then the elimination of quotas will deliver smaller benefits to Asian pacific developing country suppliers.

25.53 In June 2003, the first WTO Panel report was adopted on the interpretation of the Agreement on Rules of origin. The dispute was brought to the WTO by India about the new US Rules of Origin on textiles and apparel. The new US rules concern fabrics and certain made up non apparel articles assembled in a single country from single country fabric. India's exports of flat goods (eg. bed linen and home furnishing articles) were affected by the modification.

25.54 India's share in global exports is only three per cent compared to China's 14 per cent. China is stated to be a serious competitive threat to India. The export share of Korea (6%) and Taiwan (5.5%) are ahead of India while Thailand (2.3%) and Indonesia (2%) are close to India

25.55 The total apparel market in India including tailored and ready made goods is estimated to be US \$ 20 billion. Readymade apparel accounts for only 20 per cent of the domestic market. However brands accounts for nearly 2/3 of readymade apparel. The estimated branded apparel market was Rs. 52 billion in 1998-99 which increased to Rs. 90.04 billion in 2001-02.

25.56 Overall there is low level of modernisation in most levels of the clothing and textiles value chain especially in weaving and garmentry. Among Powerlooms which produce 60 per cent of fabric output, less than 2 per cent are shuttle less looms. In the apparel sector also, India has a much lower investment especially in special purpose machines. More investment is needed in cutting and finishing machineries as shown by a recent study (Box 25.5)

25.57 The textile Upgradation fund scheme was launched by the Ministry of Textiles in 1999 with a corpus of Rs. 25000 crores. Some textile firms in India are upgrading capability by not only diversifying product portfolios but moving to high value added cloth such as technical textiles (heat resistant, acid resistant etc). The emergence of branding is also taking place. Branding which began in men's wear is slowly moving into women's wear and sports wear areas.

BOX-25.5

Major Findings of a Study on Textiles

A recent study by United States International Trade Commission (USITC, 2004) covering the 35 major foreign supplies from developing countries to the US market for textiles and clothing predicts that the US clothing imports will largely come from two types of suppliers once quotas are removed. First - the most competitive Asian suppliers - China, India and potentially Indonesia. The second tier - Mexico, Caribbean etc.

Low cost suppliers such as China and Vietnam have emerged recently as powerful competitors for US market in clothing. The total production of fabrics in all the three sectors combined was 42 billion square meters with 59% of the total fabric production produced by the Powerloom sector, 19% by handloom sector and 17% by the knit (hosiery) yarn sector.

Cotton is the predominant fabric used in the Indian textile industry. Nearly 60% of overall consumption in textiles and 75% in spinning mills is cloth. In 2001 cotton fibre production was of the order of 14 million bales and was declining steadily. In 2000 and 2001, India imported 2 million bales of cotton fibre.

Silk – India is the largest producer of Silk, constituting 18% of World production.

Apparel/Clothing: The total apparel market in India including tailored and ready made goods is estimated to be US \$ 20 billion.

More than 50% of Indian market is for traditional wear (Sari, dhoti, Salwar etc.). The Western apparel sector market is around \$ US 9 billion, of which exports account for about US \$ 5.5 billion

in 2000-01. The \$ 3.5 billion domestic market is eventually urban areas, where the consignment of readymade apparel has risen significantly in recent years.

Ready made apparel accounts for only 20% of the domestic market. However brands account for nearly 2/3 of ready made apparel.

China is moving to high value processed fabrics with sizeable investment in value added products. India is still in the phase of upgrading the commodity end (yarn & grey fabric). China and other developing countries are emerging as serious competitors to India.

Process	Determinants of competitive Advantage	India's Competitive Position	Emerging Competition
Spinning	Quality, cotton price	Medium	India, Turkey
Weaving	Technology, automation, power, finance	Low	Vietnam, Philippines
Processing	Scale economy, technology, environment issues, finance	China, Vietnam, Low	Philippines
Garmentry	Labour cost, productivity, brand fashion design	Medium	Bangladesh, Sri Lanka, Morocco, East Europe, Mexico, East Europe

Overall there is low level of modernisation in clothing and textiles and in weaving and in garmentry. Among Powerlooms which produce around 60% of fabric output, less than 1% are shuttleless looms. Even in Pakistan 63% of its looms are Shuttleless

In the apparel sector as well, India has a much lower investment . More investment is needed in cutting machine and finishing machines. Textile industry which has the potential to emerge as global player.

Source : Washington State University

General Agreement on Trade in Services (GATS)

25.58 Like other WTO agreements, GATS is a framework agreement. Its actual content, and hence its implication, at the national level largely depends on individual country's commitments. Unless explicitly indicated other wise, commitments are bound, which means that their modification or withdrawal may give rise to requests for compensation from affected countries. As a result, commitments virtually guarantee a minimum level of market access to foreign service providers.

25.59 The General Agreement on Trade in Services (GATS) classifies services into 155 service types, and differentiates between four Modes of supply (Box- 25.6)

Health Services

25.60 It is often claimed that health services represent an area in which developing countries have the potential to become major exporters either by attracting foreign patients to domestic hospitals and health care facilities or by sending health workers abroad temporarily. Cuba provides an example for this. There, Government policy is to make Cuba into a World medical lender. A trading company, SERVIMED, was created by the government to offer tourism/health packages. In 1995-96, it was reported that 25000 patients and 1500 students went to Cuba for treatment and training generating revenue for Cuba of \$ 25 million in the year. Cost savings for both patients and insurers can be very significant. It was

BOX-25.6**Modes of supply**

Mode 1 - Cross border supply - service is supplied directly to a consumers' country of residence from a supplier's country of residence (eg. legal advice given from abroad by letter or telephone, Provision of diagnosis or treatment planning services in country A by suppliers in country B via telemedicine)

Mode 2 - Consumption abroad - a service is supplied to a consumer by the consumer physically moving to the suppliers country of residence to receive the serve (eg. Visit to a low office abroad , movement of patients from country A to country B for treatment)

Mode 3 - Commercial presence: This is where supply of service by a commercial organisation involves moving to a consumer's country of residence (FDI for instance, establishment of or investment in hospitals in country A whose owners are from country B)

Mode 4 - Presence of natural persons: This is where a service is supplied by the (typically temporary) movement of service provided to the consumer' country of residence (eg. labour mobility of the service provided, service provision in country A by health professionals who are nationals of country B)

reported that cost of coronary bypass surgery in India is about five percent of that in developed countries. The UN and WHO estimate the cost of liver transplants in India to be about one tenth of that in the US.

25.61 There are many barriers to international trade in health services, not the least of which is Portability of health insurance coverage. For instance, US Government employee coverage is limited to certified practitioners in the US for a specified state. Another barrier is Visa and house purchase/registration restrictions in the developing world. UN and WHO estimate that three percent of elderly living in OECD countries retiring to developing countries would bring revenues of perhaps \$ 10-15 billion a year in medical expenses to developing countries.

India's Commitment under the GATS

25.62 India has scheduled only nine service sectors in the past round of negotiations. These include engineering service, computer and related services, research and development services and technical analysis and testing services under the category of business services, telecommunication services and audiovisual services under the category of communication services, construction and related engineering services, financial services, health related and social services and tourism and related services. In most of the sectors, the specific commitments cover only some of the sub sectors. In health and related services, only hospital services are covered.

25.63 India has made unbound commitments on Mode 1 across the scheduled sectors. Under Mode 4, it is unbound in the sectoral schedules and refer to the horizontal commitments on Mode 4. The latter are in turn subject to the usual conditions on entry and stay and are bound only to business visitors, intra corporate transfers and professionals.

25.64 Mode 4 is the predominant form of India's exports particularly Kerala's in health services and thus should play a central role in India's negotiating strategy in this sector. India should obtain sector specific commitments in addition to the horizontal commitments in Mode 4, and also negotiate for improved market access for specific categories of service providers, with clear specification of educational and other qualifications that must be satisfied. Major limitations in this negotiation are the qualification related conditions and requirement for registration with professional associations. In some EU countries, the market access commitment in Mode 4 for nurses restricts entry to those licensed by domestic professional associations, which in turn require conditions of residency.

25.65 Kerala should take active interaction in formulating a national country position strategy in service sector especially in health sector . Detailed data has to be generated for supporting the argument. This is one of the areas of strength for the state.

25.66 Mode 4 will remain important for a range of services. Even in software industry, the means of service supplying personnel remains crucial. Although the share of onshore services has declined nearly half of Indian software exports are still supplied through the temporary movement of programmers to the client's site overseas. There is no substitute for human labour, at least in some occupation, eg. the caring occupation, personnel services and a range of professional services) and the demand for Mode 4 is likely to increase over time.

Barriers

a) Visa formalities

- One source of problem is that the temporary movement of service providers invariably comes under the purview, not of international trade policy, but of immigration legislation and labour market policy.

b) Prohibition and quotas

- On foreign providers are imposed either explicitly or through requirements of a prior adequate search for national service provided. (eg. France in construction, research and development, higher education)

c) Wage parity conditions

- Imply that wages paid to foreign workers should be similar to the existing wages paid to nationals in that Profession. (eg. in the US). It erodes the cost advantages of hiring foreigners and works like a de facto quota.

d) Discriminating treatment

- Residency or citizenship requirements are frequently imposed as eligible conditions, fully foreign procedures at a disadvantage.

e) Non recognition of professional degrees

- and licensing requirements in the US, a powerful and diverse lobby used the GATS negotiation to generate a US binding of the HIB Visa provision covering the temporary employment of highly skilled foreign workers in US firm.

25.67 In the case of US, in practice HIB worker can stay for an initial period of three years as committed, but can extend their stay for a maximum of six years. There is an annual cap on the number of approved HIB Visa, totaling 1,95,000 for the 2001-02 fiscal period, but in the absence of new legislation the cap will reach to only 65000 from 2004 onwards limiting the advantage for the developing countries..

25.68 There are at least three dimensions to the movement of an individual from one country to another for economic reasons - the length of stay, the level of skills and the nature of the contract. The legal and economic implication of each type of movement are different

25.69 Nothing in the GATS limits the scope of natural persons to particular levels of skill, but the agreement is less clear on other dimension. Japan allows foreign business travellers to stay for a maximum of 90 days but certain categories of intra-corporate transferees can stay as long as 5 years. **A clear duration distinction is needed under 'temporary'.**

25.70 Most existing commitments under the GATS favours to business travellers and intra corporate transfers who must be managers, executives or specialists. Such commitments are of limited interest to countries that are not significant foreign investors, contracts are often qualified by other restriction, prior employment, navigational quotation, economic needs tests and residency requirements. Several European countries have programmes for less skilled, short term foreign workers - eg. general workers in agriculture, tourism and the hotel trade, project workers in construction etc. These programmes are not included in the GATS commitments.

New initiatives for monitoring and promotion of trade in Services

25.71 Timely and more disaggregated information on international transactions in services assumes vital importance for effective monitoring. A Technical group on status of international trade in services appointed by the Reserve Bank of India submitted its report in 2002. Based on the recommendations of the group, the purpose codes for capturing data on international trade in services were revised. The Foreign Trade Policy 2004 suggested the establishment of a Services Export Promotion Council in order to give proper direction, guidance and encouragement to the service sector.

Regional Trading Agreements (RTAs)

25.72 Along with the evolution of multilateral system, there has also been a parallel movement towards the formation of RTAs. The proliferation of Regional Trade Agreements is fundamentally altering the world trade. The number of RTAs has risen six fold in just two decades. According to WTO, 43 per cent of global merchandise trade is channelised through RTAs and this is expected to cross 50 per cent by 2005. The number of these agreements has more than quadrupled since 1990 rising to about 230 by late 2004. Another 60 agreements are in various stages of negotiation. The European Union and US are playing a prominent role in this proliferation. As agreements proliferate a single country become a member in several different agreements. The average African country belongs to four different agreements and the average Latin American Country belongs to seven agreements.

25.73 Disciplines are lacking with respect to preferential rules and WTO has no mandate to monitor the trade effects of RTAs. Multilateralism will dominate in World trade along with proliferation of RTAs.

25.74. The Indo Sri Lankan Free Trade Agreement allowing free import of pepper has to be modified to safeguard the interest of Kerala farmers. The import of pepper from Sri Lanka has shown a steady increase during the last three years. Indo-ASEAN Negotiations are in an advanced stage in establishing an FTA. Kerala also could exploit the possibilities of these agreements. However more transparency at GOI level is needed to involve state governments also in the negotiation process since trade liberalisation with these countries may have an impact on the economy of the state, especially in rubber, palm oil, marine products and pepper. India's current Regional Trade Engagements at different levels of negotiation / modification are shown in BOX 25.7

25.75 The South Asian Preferential Trade Agreement (SAPTA) among the SAARC countries (Bangladesh, Bhutan, India, Maldives,

Nepal, Pakistan and Sri Lanka) which was signed in April 1993, became operational in December 1995. The Governments of these countries transferred SAPTA into the South Asian Free Trade Agreement (SAFTA) in 2004.

25.76 Government of India and Thailand signed a framework agreement to establish an India-Thailand FTA. The key elements of the agreement cover FTA in Goods, Services and investment and area of economic cooperation. The framework agreement also provides for an Early Harvest Scheme under which common items of exports interest to both sides have been agreed and identified a list of 82 items for exchange of tariff concessions. Tariffs on these items will be phased out in 2 years time frame starting from 1st March 2004. The protocol was signed on 30th August 2004 in New Delhi. Under FTA in goods, negotiations commenced in January 2004 and expected to conclude by March 2005, FTA in services and investments to conclude by January 2006.

25.77 The tariff reduction envisaged are 50 per cent of applied MFN tariff rates as on 1st January 2004 by 28.2.2005, 75 per cent reduction by 28.2.2006 and 100 per cent reduction from 1.3.2006. The major items covered under EHS include mango, marine products (Salmon, Sardine, Mackerel, Crab), Pumps, ball bearings, industrial circuits, disc harrows, diamonds, salt, polyurethanes etc.

25.78 The fisheries sub sector is likely to be affected adversely from the Indo Thailand Agreement. The matter has to be taken up with Government of India for a possible change in duty structure for fisheries products.

25.79 RTA represents a fundamental departure from the WTO principle of non discrimination even though it is allowed under the World Trade Agreement. The rules, basket of commodities, nature of agreement and other regulatory frame work will vary for different agreements throwing challenges to the economy of the states in the country. **Along with preparation for the multilateral trade, the opportunities as well as threats of regionalism must be tackled effectively at the state level.**

BOX-25.7**India's Current Regional Trade Agreement Engagements**

1. Framework Agreement on Comprehensive Economic Co-operation with ASEAN countries
 2. Bangladesh-India-Sri Lanka - Thailand Economic co-operation (BIMST EC FTA)
 3. India Singapore Comprehensive Economic Co-operation Agreement (CECA)
 4. Framework Agreement for establishing Free trade between India and Thailand
 5. India-SriLanka Bilateral Free Trade Areas and the Proposal for Comprehensive Economic Partnership Agreement.
 6. Agreement on South Asia Free Trade Area (SAFRA)
 7. India -Mercosur FTA
 8. India-Southern African Customs Union Framework Agreement
- Joint Study group with Mauritius
- India-GCC Framework Agreement
- Joint Study group with China
- Joint study group between India, Korea, Japan
- Bangkok Agreement

WTO and Environment

25.80 Environmental issues began to be systematically addressed in the WTO following the decisions on Trade and Environment taken towards the end of the Uruguay Round at Marrakesh in 1994. The Committee on Trade and Environment was established in the same year. In 2001, environment was explicitly put on the negotiating agenda in the Doha Ministerial Declaration and today environment has been mainstreamed into the multilateral trading system. The important multilateral Environmental Agreements include the convention on International trade in Endangered species of Wild

flora and fauna, the Montreal Protocol on substances that deplete the ozone layer, the Basel Convention on the control of Transboundary Movement of Hazardous Wastes and their disposal, the Cartagena Protocol on Biosafety, the Rotterdam convention on the prior informed consent procedure for certain Hazardous chemicals and pesticides in International Trade and the Stockholm Convention on persistent organic pollutants.

25.81 There are 238 international environmental agreements under the UNEP, with 28 of them containing a trade measure or provision that can impact trade.

BOX-25.8**Asbestos Case**

A French Decree (EU) prohibiting the manufacture, sale, export, import and use of asbestos fibers was challenged by Canada in 1998 on the grounds of less favored treatment of imported asbestos as compared to domestic substances for asbestos, contrary to Article III,4 of GATT, 1994. In September 2000, the WTO dispute panel ruled in favour of EU clarifying the following.

- WTO members have the undisputed right to determine the level of health protection they deem appropriate.

Framework Agreement (Geneva)

25.82 The framework agreed by trade Ministers of 147 WTO member countries in Geneva on July 31, 2004 has helped salvage the Doha Development Agenda. The developing countries can derive some satisfaction from the fact that the Geneva accord reflects advances in at least two major areas. First, the developed countries including the EU and the US, have agreed to the eventual elimination of all export subsidies and major cuts in domestic support to their farm sector. In the first year it would be reduced by 20 per cent. Second, three most contentious out of four Singapore issues - investment, competition policy and transparency in Government procurement have been dropped. The only Singapore issue that has been retained is trade facilitation.

25.83 A year long impasse that threatened to derail the Doha round of negotiations finally ended in July 2004 in Geneva, when member countries reached a compromise. The Doha round launched in Qatar in 2001, ground to a halt in Cancun, Mexico in September 2003 over a series of disagreements. The developing countries demanded elimination of subsidies on cotton and other key agricultural exports, while industrial countries insisted on introducing into the round a set of four completely new areas. However the present agreement reached is only a framework agreement, details of which have to be worked out where statistical *tools* may perhaps clog the expected advantage for the developing countries. Again some of the reduction commitments are from the bound rate not from the applied rate leading to no change in price levels.

BOX-25.9**Salient features of Geneva Ministerial Meeting.**

- ◆ What appears on paper to be significant commitments. EU to eliminate agricultural subsidies.
- ◆ In the first year of implementation of the agreements of the Doha round, it would reduce by 20 per cent, its trade distorting agricultural supports.
- ◆ Drop three out of four Singapore issues. The talks on agreement on trade facilitation to lower the costs and simplify customs procedures will alone continue.
- ◆ In the first year of implementation, the subsidies would be reduced by 20%, with a harmonizing effect. Blue box support will not exceed 5% of members average total value of agricultural production. Green box criteria will be reviewed.
- ◆ Developing country members may designate an appropriate number of special products to be negotiated for treating as sensitive products.
- ◆ Tariff escalation to be addressed through a formula to be agreed.
- ◆ A special safeguard mechanism will be established for use by developing countries.
- ◆ Article 18 of AoA will be amended to ensure full transparency.
- ◆ Members must intensify their efforts to conclude the negotiations on rule making under GATS.

Future negotiations?

25.84 India must press for the formula approach to be the core modality in future negotiations. The formula to be preferred must be a non-linear harmonization formula such as the Swiss formula and not a linear formula as only a non-linear formula can reduce higher tariffs by a greater percentage.

- ◆ India must maintain the stand that the agreed formula must be applied to all bound tariffs without exceptions so that the products of interest to the developing countries are not left out.
- ◆ For bound tariffs, the base rate must be the level at which the binding was made in the Uruguay Round. For unbound tariffs, India must press for the rate prevailing in April 1994 to be the bound rate.

Immediate State level initiatives needed in the following areas

- ◆ A WTO unit with professionals including legal experts should be put in place for covering issues in agricultural and industrial products trade, TRIPS, GATS and other areas.
- ◆ A study series should be commenced to analyze the implications for the State as well as to prepare sector specific action plans in the post WTO context.
- ◆ Action plan for Modernisation of Agriculture has to be prepared based on the recommendations of the Report of the Commission on WTO concerns in Agriculture submitted by Dr.M.S.Swaminathan
- ◆ Extensive documentation of ITKs and preparation of Biodiversity Registers to be given top priority. An effective TRIPS cell may be constituted to address comprehensively various areas included in the TRIPS Agreement.
- ◆ Measures to be taken to get protection for various indigenous products with GI appellation like Malabar Pepper, Cochin Ginger, Alleppey finger turmeric, selected handicrafts etc.

- ◆ A Consultative forum to be established for discussing various issues on bilateral trade and WTO.
- ◆ Since regional trading blocks are increasing very fast, State must press the Centre for consultation in the preliminary stage itself. State may have to generate extensive database on regional trading blocks for preparing position papers.
- ◆ Some specialized academic institutions to be identified for providing inputs to Government for Policy decisions and framing State specific views.
- ◆ Development projects have to be initiated immediately for modernization of laboratories for quality checking of products and inputs. Good laboratory practices and good manufacturing practices to be implemented in a phased manner.
- ◆ A proper database on Service sector has to be generated. A system has to be put in place to monitor the service sector. The Foreign Trade Policy 2004 has already announced the establishment of Services Export Promotion Council.. Since this is an important area for the state top priority should be given.
- ◆ A modernisation plan suited to the Post WTO context for the apparel industry to be put in place.
- ◆ Quality literacy movement to be put across the supply chain to retain the market share of our exports.
- ◆ New set of income/price stabilisation schemes to be tried out on an experimental basis instead of continuing the traditional procurement operations for price stabilisation. The support price, procurement schemes etc., seems less effective for the stabilisation of prices.
- ◆ Technical assistance for modernisation of fish processing/pre processing units for upgradation to HACCP levels to be given thrust.
- ◆ Experimental database to be created for generating support base for fixing Maximum Residue Levels of various pesticides used in the state.
- ◆ SPS and TBT agreements are potential threats for the export of traditional products from our state. Investment for quality upgradation, packaging units, etc with Private participation in combination with support from GOI and financial institutions should be initiated.