IMPACT OF PRINCIPLES OF GATT AND WTO ON PRESENT TRADE MECHANISM

A DISSERTATION TO BE SUBMITTED IN PARTIAL FULFILMENT OF THE REQUIREMENT FOR THE AWARD OF DEGREE OF MASTER OF LAWS

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CERTIFICATE

This is to certify that the dissertation titled, **IMPACT OF PRINCIPLES OF GATT & WTO ON PRESENT TRADE MECHANISM.** the work done by **RAHUL KUMAR** under my guidance and supervision for the partial fulfillment of the requirement for the Degree of **Master of Laws** in School of Legal Studies Babu Banarasi Das University, Lucknow, Uttar Pradesh.

I wish his success in life.

Date: 05/07/2021 **MS. TRISHLA SINGH**

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I understand what plagiarism is and am aware of the University's policy in this regard.

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Place- Lucknow

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With the overwhelming sense of legitimate pride and genuine obligation, I seize this jubilant occasion to express my deep sense of gratitude and personal regards to my Head of Department, **Assistant Professor Ms. Trishla Singh** for the immense support, cooperation and guidance. I choose to acknowledge their contribution grateful.

I perceive as this opportunity to as a big milestone in career development. I will strive to use gained skills and knowledge in the best possible way and will continue to work on their improvement in order to attain desired career objective. Hope to continue cooperation with all of you in future.

Date: 05/07/2021

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Chapter 04 – Relation between GATT and WTO

ABSTRACT

The present study covers the Principles of the GATT and WTO and their effect on the present trade mechanism. This study will find out the effects of the principles of GATT on which GATT was found and established. Each Principal has its own effect on the economy and trade of the member nations. Thus, each and every principal is Important and plays a major role on the world economy and trade. GATT was signed for the promotion of the free trade and later it was amalgamated in the WTO. GATT has not been completely abolished but it has been included inside the WTO.

The major WTO agreements include **GATT, GATS, TRIPs and TRIMs.** So this how GATT is still working and WTO is following its principles and the agreement.

WTO is managing all other agreements including GATT. Impact of the treaty can be seen on every member states economy. When the GATT was signed it was a just a paper work and conventions, there was nothing other than that while WTO is a body corporate.

WTO has its own headquarter in Geneva, Switzerland. There are permanent employees and it has its annual budget also. There is proper structure and all the facilities to work.

The dispute settlement body of WTO is much better than the GATT as it has settled more than 500 disputes in back 25 years. The members of general council work as the dispute settlement body.

Ministerial conference is held in every two years which is also called **Rounds.** This is the top level rules making body which meets and makes rules in the conference and pass it with majority and later it becomes binding on the members of WTO.

The growth has been seen after the both of the treaties GATT and WTO, but GATT is some difficulties which were removed in the WTO. WTO made a great impact on the global trade including India. Indian exports are boosted after being member of the WTO. MNCs started investing in India and economy of India was boosted and became huge.

LIST OF ABBREVIATION

GATT – GENERAL AGREEMENT ON TARIFF AND TRADE

WTO – WORLD TRADE ORGANIZATION

MNC – MULTINATIONAL COMPANY

ITO – INTERNATIONAL TRADE ORGANIZATION

TRIPS – TRADE RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS

TRIMS – TRADE RELATED ASPECTS OF INVESTMENT MEASURES

GATS – GENERAL AGREEMENTS ON TRADE IN SERVICE

MFN – MOST FAVORED NATION

NAFTA- NORTH AMERICAN FREE TRADE AGREEMENT

FDI – FOREIGN DIRECT INVESTMENT

DSB – DISPUTE SETTLEMENT BODY

IMF – INTERNATIONAL MONETARY FUND

IPR – INTELLECTUAL PROPERTY RIGHT

WB – WORLD BANK

A-D D – ANTI- DUMPING DUTIES

FTA – FREE TRADE AGREEMENT

WIPO – WORLD INTELLECTUAL PROPERTY ORGANIZATI

CHAPTER-I

INTRODUCTION

1.1 Introduction

The World War II led participating nations to economic disaster. War in never good for the trade except trade in **Defense sector** and to be very precise it is only beneficial for the seller of the weapons and defense equipments. And the nations who are top manufacturer and sellers of the defense and weapons, they always think to put nations on fire. Peace is not good for them. They always provoke a nation against other nation for even the small disputes so that their weapons could be sold in fear of the war.

In the World War II, there were many nations participating in it e.g. India, because we were slaves of the British Crown. India suffered it even we don't have any role in the World war. And the economy of many other nations in Europe was also in loss. There after the World War II, it was very necessary to such nations to increase their trade so that they can solve their economic issues. In America, there was a discussion for the Establishment of the **International Trade Organization (ITO).** But it was in discussion while the 23 nations held meeting and signed the GATT.

When the GATT was initially signed it was deemed to be for a short period until the ITO is not established. But later idea of the ITO was dropped and many states joined GATT. And **India** also joined the GATT in 1948.

Many states were opposing the Policies of the ITO as they were not finding it very beneficial for their trade policies and in favor of them. Thus idea of ITO was abandoned. And by the end of the GATT there were 123 members of the GATT who later became founding member of the WTO after the long Uruguay Round.

GATT became successes because it promoted the free trade among the nations. Free trade does not means that it was against the Tariff and Duties but it promoted trade by eliminating the trade barriers among the nations, reducing tariffs and most Important it MFN policy. Most favored nation (MFN) promotes **Trade without the Discrimination.** This was the basic first principal of the GATT. Thus it promoted the trade and economies of the nations were highly recovered. Principles of GATT were based on the Equality but there were some exceptions, provided in the GATT means if the any state want to make a free trade agreement with any other nation or group of nations, there were no objection by the GATT. Example of the **Free trade agreement is NAFTA**(North American Free Trade Agreements). There can be such exception.

After the creation of the GATT, many meetings were held and most of them were for the **Reduction of the Tariffs on the Goods** and results were the positive.

After the creation of the GATT, the first meeting was held in 1948 for the reduction of the Tariff which's result was the 5% reduction on the tariff on selected goods.

GATT held eight rounds of meetings and the last one which is called Uruguay Round was one of the most important in these meeting.

Discussion for the creation of the WTO was discussed in this round. It was very long round which started since **1986** and ended in **1993** and resulted the creation of the WTO.

TRIPswas also discussed and signed in this round and was included when the WTO was enforced. After the establishment of the WTO, trade related rules were more effectively implemented.

Trade related disputes are now settled by the WTO much faster than before and promoted the trade in better way.

Trade related to the service was also included in the WTO and had a better increment than earlier. Trade related to services was not included in the GATT. The GATT was all about the trading in goods and do not include Service. Thus after the establishment of the WTO it also promoted the trade related to the services. And now the service sector in India, is more than 200 Billion $ in exports only.

Year by year, with the advancement of the Laws and rules set by the WTO, international trade is increasing. And economy of the member states is getting bigger.

1.2 Literature review

International trade law is very important in the era of the globalization. International trade is increasing rapidly year by year. Study of the international law becomes more important because there are risks also involved in the businesses. For the growth of the business, study is very important to find out the reasons of the consequences of the act.

There is a lot of scope and need of the study in this area thus many scholars have published their studies in which they have written about the international trade.

As I am doing this dissertation in 2021 colleges are not open thus arranging books has been difficult to find. I have to read the online journals and studies Reports etc.

I have studied and collected information from the WTO official website, which is managed and updated by the WTO authorities.

The secretariat of the WTO manages the press and other media and the website is also managed by the WTO officials.

Information available on the website is the most authentic. Thus it is reliable to collect data from there. There are many journal and papers available related to the treaties / accord /agreements. The information available there is precise relevant and informative.

The other resources which I used are Investopedia, Canadian encyclopedia etc.

The information available on them is good and precise. Things are explained in short words. That is highly informative about the global trade.

A sufficient research has been done on the global trade but one thing to mention that “the impact of the GATT on Indian economy” this topic is not more highlighted.

GATT has been repealed by the WTO thus research data is available more for WTO.

1.3 Research methodology

The subject of the research is vast. This could be as long as a person can make. Every state had some impact because of the creation of the GATT.

WTO has a vast effect across the globe thus study of the impact of the principles of the GATT and WTO on present trade mechanism could be very broad.

The method used to conduct this research is **Doctrinal.** The sources which are used are secondary.

Most of the sources of the information are available and taken from the journals and information available on the internet.

I have taken the relevant data and examined that and used it in my research.

This research also includes **Historical** research as I have included the past events in this.

1.4 Significance and scope of study

International trade has been a hot topic for the scholars and researchers. These studies help the leaders of the nations to understand the international trade more easily and the global trade is important for every country. This is also helpful for the academics.

This research has been conducted to find out the importance of the GATT and WTO in present trade mechanism and its role in the international trade.

Study becomes more important because this the era of the globalization. Business always involves the risk. There are disputes, laws and many more things which we have to counter and settle. To understand all this, we need international trade law studies.

International trade law is used when there is any issue between the two or more than two member states happens. There are duties which a state imposes.

Any member state can go to the WTO where it places the problem and DSB try to settle the dispute there the international trade law is used.

International trade is basically the agreements and accords which becomes law when signed and rectified by the member state.

Thus international trade is a vast and important topic to understand and study. It has a great scope ahead.

In India international trade law has a good scope because many MNCs have invested herein our country, which are governed by the international trade laws also.

Study of the International trade is required in the making of the Local laws because we are bound by the international agreements.

We have to rectify the agreements in our Parliament. Then we can make laws according to the International Agreements.

In the business one have to understand that how the company can expand its business at global level.

Every state has different laws thus it is important to study international trade law.

1.5 Aim & Objective of the study

The aim of our study is to critically examine the principles of WTO and GATT. These organizations are based on such Principles on which rules are made and adopted by the member states.

The impact of the principles has good or bad effect.

Objectives of this study are:

- To understand the role of the GATT and WTO in international trade
- To understand the principles of the GATT and WTO
- To understand the effect of the principles of GATT and WTO
- To understand the reasons for the repeal of GATT
- To understand the reason of creation of the WTO

1.6 Hypothesis

In this study I will test these assumptions/ hypothesis:

- World trade organization promoted free trade among the nations.
- GATT was the foundation of the WTO.
- WTO is an upgraded version of GATT.
- Trade is increased after the establishment of GATT and WTO
- Indian economy is increased after joining the WTO

1.7 Research question

In this study I shall try to find out the answers of the following questions:

- Reason behind the repealing the GATT and establishment of WTO
- What was the impact of the principles of the GATT and WTO on the global trade
- Impact of the principles GATT and WTO on Indian Economy
- How WTO made the global trade easy and predictable
- What are measure to stop dumping of the goods

CHAPTER- II

GENERAL AGREEMENT ON TARIFF AND TRADE

2.1 General Agreement on tariff and Trade

General agreement on tariff and trade (GATT) was signed among 23 nations to recover the loss occurred due to the Second World War. Economy of the participating nations was down and trade is the only way out of the crisis due to it.

It was a agreement which were signed initially by 23 countries and later when it converted into WTO there 128 members who signed the agreement in **URUGUAY ROUND.**

The GATT has ultimate goal to promote free trade and increase it to the maximum without any restriction subject to any special circumstances.

2.2 Historical background of GATT

The General Agreement on Tariffs and Trade (GATT) was an international trade agreement. It was signed by 23 nations, in 1947 and came into effect on 1 January 1948. It was refined over eight rounds of negotiations, which led to the creation of the World Trade Organization (WTO). It replaced the GATT on 1 January 1995. The GATT was focused on trade in goods. It aimed to liberalize trade by reducing tariffs and removing quotas among member countries. Each member of the GATT was expected to open its markets equally to other member nations, removing trade discrimination. The agreements negotiated through GATT reduced average tariffs on industrial goods from 40 per cent (1947) to less than five per cent (1993). It was an early step towards economic globalization.[1]

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1. https://www.thecanadianencyclopedia.ca/en/article/general-agreement-on-tariffs-and-trade

2.3 Reason behind the creation of GATT

The GATT was established in 1948 to regulate world trade. It was created to boost economic recovery after the Second World War by reducing or eliminating trade tariffs, quotas and subsidies.[2]

During the Great Depression, a breakdown of international relations and an increase in trade regulation made poor economic conditions worse. These factors contributed to the outbreak of the Second World War. After the war, the Allies believed that a multilateral framework for world trade would loosen the protectionist policies that defined the 1930s. It would also create an economic interdependency that would encourage partnership and reduce the risk of conflict. The idea was to establish a code of conduct that would progressively liberalize (remove or loosen restrictions on) international trade. Within this code of conduct, consultation on trade issues among member nations could take place and be resolved. Data on world trade characteristics and trends could be collected and shared.[3]

The GATT was established more than a year before the North Atlantic Treaty Organization (NATO), a Western military alliance. The GATT played an important role in the Cold War, which began shortly after the Second World War. It helped the US-led capitalist West spread its influence by liberalizing trade through multilateral agreements. The West, with which Canada was aligned, gained more economic allies through these agreements. This strengthened its global influence in the face of the communist Eastern bloc led by the Soviet Union. After the Cold War, with the collapse of the Soviet Union in 1991, the GATT transitioned into a truly global

[2] https://www.thecanadianencyclopedia.ca/en/article/general-agreement-on-tariffs-and-trade

[3] https://www.thecanadianencyclopedia.ca/en/article/general-agreement-on-tariffs-and-trade

organization — the WTO. It admitted former communist bloc countries, such as Czech Republic, Poland and Romania.[4]

2.4 Negotiation for the GATT

The GATT was first discussed at the United Nations Conference on Trade and Employment in Havana, Cuba, in 1947. It was there that the idea of creating the International Trade Organization (ITO) was proposed. It was hoped that the ITO would complement the World Bank and the International Monetary Fund (IMF) in fostering international economic cooperation. While more than 50 nations were negotiating ITO and organizing its founding charter, preparatory sessions were held regarding GATT. Several sessions were held. 23 nations then signed the GATT on 30 October 1947 in Geneva, Switzerland. The agreement came into effect on 1 January 1948.[5]

The GATT was initially seen as a provisional agreement that would be superseded by the ITO. After the United States backed away from the ITO in 1950, the focus shifted to the GATT. [6]

Regular trade negotiations were conducted and refined among member states on a regular basis. Eight multilateral trade conferences (also called rounds) were held between 1947 and 1994. The GATT was established at the first round in 1947.[7]

2.5 When India became member of GATT

India joined GATT since 8 July 1948. Later became founding member of WTO.

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[4] https://www.thecanadianencyclopedia.ca/en/article/general-agreement-on-tariffs-and-trade

[5] https://www.thecanadianencyclopedia.ca/en/article/general-agreement-on-tariffs-and-trade

[6] https://www.thecanadianencyclopedia.ca/en/article/general-agreement-on-tariffs-and-trade

[7] https://www.thecanadianencyclopedia.ca/en/article/general-agreement-on-tariffs-and-trade

2.6Principles of GATT

When the GATT was signed there were all the member states agreed on 3 basic Principles. Which led them to achieve the ultimate goal of the treaty .ThesePrinciples were:-

- **Most-Favored-Nation (MFN)**
- **Quantitative Restriction on Trade**
- **Trade negotiation for tariff reduction**

2.6.1 MOST FAVORED NATION

Most Favored Nation has some different meaning for the international trade. When the GATT was found every nation has different relations with each other regarding to trade. Thus the trade among the nations was unbalanced and unorganized. This led to high up and down in trade. The trade was unpredictable.[8]

The member states decided that trade should be predictable and balanced so that every member state could make profit from it. There should be equal treatment for each and every member state but the parameters, to set a limit for the tariff was tough. Thus the members found a way to decide the minimum tariff rates which is called the "Most Favored Nation (MFN)".[9]

In this method, the member state has to give all the benefits to all other members which it gives to his most favored nation.

[8]https://www.investopedia.com/terms/m/mostfavorednation.asp

[9]https://www.investopedia.com/terms/m/mostfavorednation.asp

In International trade, MFN treatment has same meaningas non-discriminatory trade policy because it ensures equal trading among all GATT member nations rather than exclusive trading privileges. For example, if a nation reduces tariffs by 10% for one nation, the MFN clause states that all GATT members will have their tariffs cut by 10% into that nation.[10]

There cannot be any discrimination with other nations and favor to any member state. There should be equality for the trade among all the member states.[11]

There should be same tariff rates and benefits to all the member state.

MFN requires that a country act fairly with all WTO member countries, extending the same privileges and immunities granted to one country to all members[12]

MFN advocates for non-discriminatory trade policy, ensuring equal trading among all WTO member nations.[13]

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[10] https://www.investopedia.com/terms/m/mostfavorednation.asp

[11] https://www.investopedia.com/terms/m/mostfavorednation.asp

[12] https://www.investopedia.com/terms/m/mostfavorednation.asp

[13] https://www.investopedia.com/terms/m/mostfavorednation.asp

2.6.2 QUANTITATIVE RESTRICTION ON TRADE

Article XI of the GATT generally prohibits quantitative restrictions on the importation or the exportation of any product, by stating "No prohibitions or restrictions other than duties, taxes or other charges shall be instituted or maintained by any Member." One reason for this prohibition is that quantitative restrictions are considered to have a greater protective effect than tariff measures and are more likely to distort free trade. When a trading partner uses tariffs to restrict imports, it is still possible to increase exports as long as foreign products become price competitive enough to overcome the barriers created by the tariff. When a trading partner uses quantitative restrictions, however, it is impossible to export in excess of the quota no matter how price competitive foreign products may be. Thus, quantitative restrictions are considered to have such a distortional effect on trade that their prohibition is one of the fundamental principles of the GATT.[14]

2.6.3 TRADE NEGOTIATION FOR TARIFF REDUCTION

This increase in multilateral international trade occurred at the same time that trade barriers, especially tariffs, were reduced or in some cases eliminated across the globe. A major impetus to the global growth of trade was the General Agreement on Tariffs and Trade (GATT), a series of trade agreements adopted in 1948. The system created under GATT encouraged a series of trade negotiations focused on tariff reductions. The early trade agreements were largely directed toward tangible goods such as agricultural products, processed foods, steel, and automobiles. A round of negotiations known as the Uruguay Round (1986–94) finally led to the creation of the World Trade Organization (WTO) in 1995.[15]

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[14] https://www.meti.go.jp/english/report/downloadfiles/gCT0003e.pdf

[15] https://www.britannica.com/topic/tariff/Tariff-reduction-and-the-growth-of-international-trade

Advances in information technology since the 1990s have altered the focus of many trade agreements. In 1997 the WTO's Information Technology Agreement (ITA) and Basic Telecommunications Agreement (BTA) reduced the tariffs on computer and telecommunications products and some intangible goods considered to be drivers of the developing knowledge-based economy. The rapid growth of the Internet and electronic commerce (e-commerce) represented some of the most challenging new issues in the international trade arena, in part because many countries were slow to adopt bilateral free-trade agreements that included provisions covering e-commerce.[16]

[16] https://www.britannica.com/topic/tariff/Tariff-reduction-and-the-growth-of-international-trade

2.7 Impact of Principles of GATT on Trade

After signing the GATT, member states started meetings and negotiations for the reduction of Tariff, in the first round tariff was reduced by 5% on the selected goods. As the trade barriers were being abolished trade started to increase among the member states. In the second round, meeting was held to reduce the tariff and tariff was reduced by 10% by the member states.

Reducing such tariff rates encouraged the MNCs to increase their productivity because the export was increasing. When the Tariff is reduced on a particular product, the price of the product automatically fall and it will become cheap. And the consumption of the product increases.

Trade barriers were reduced which opened the door for the trade of the MNCs to more nations. Demand increased in the market for the Merchandise and MNCs have to increase the production to fulfill the demand. This increased to the GDP of the manufacturing State. The tax collected by the Governments increased the income, and Government could start more developments in the state.

Though India also joined the GATT, but India was playing very safely so the entire market was not open for all sectors for the foreign companies but later, in 1991 India changed its policies for the international trade.

Now India started to make policies to get the investment from the foreign companies. The economy was down that time but when changed its policies towards the international trade. Investment started in India and India could make a way out from the economic crises.

After that WTO was created and India became the founding member of the WTO.

CHAPTER-III

WORLD TRADE ORGANIZATION

3.1 World trade organization

World trade organization is an International Organization for promotion of the Free trade among the nations. It is successor of the GATT. GATT never existed physically in this world that was limited to the papers “the agreements signed by the GATT member states but the WTO is a body corporate which has its physical presence. It has headquarter in Geneva in Switzerland. WTO established on 01st January 1995 was the biggest reform in the international trade after the World War II. And it is not wrong to say that it is the biggest reform since the international trade started.

WTO is a place where member states go and tells their problems arising out of the international trade. WTO is based on the negotiations. Everything exits in the WTO is part of the negotiations among the member states and agreement of the states.

The principles and rules set by WTO are outcomes of the negotiations among the member states.

WTO is a mediator among the member states where the member states try to resolve the problems of the other member states which may be related to any international obligation or tradesuch as environment issues.

3.2 Historical Background ofWTO

The General Agreement on Trade in Services (GATS) is the first multilateral trade agreement to cover trade in services. Its creation was one of the major achievements of the Uruguay Round of trade negotiations, from 1986 to 1993. This was almost half a century after the entry into force of the General Agreement on Tariffs and Trade (GATT) of 1947, the GATS' counterpart in merchandise trade.[17]

The need for a trade agreement in services has long been questioned. Large segments of the services economy, from hotels and restaurants to personal services, have traditionally been considered as domestic activities that do not lend themselves to the application of trade policy concepts and instruments. Other sectors, from rail transport to telecommunications, have been viewed as classical domains of government ownership and control, given their infrastructural importance and the perceived existence, in some cases, of natural monopoly situations. A third important group of sectors, including health, education and basic insurance services, are considered in many countries as governmental responsibilities, given their importance for social integration and regional cohesion, which should be tightly regulated and not be left to the rough and tumble of markets.[18]

Nevertheless, some services sectors, in particular international finance and maritime transport, have been largely open for centuries — as the natural complements to merchandise trade. Other large sectors have undergone fundamental technical and regulatory changes in recent decades, opening them to private commercial participation and reducing, even eliminating, existing barriers to entry. The emergence of the Internet has helped to create a range of internationally tradable product variants — from e-banking to tele-health and distance learning — that were unknown only two decades ago, and has removed distance-related barriers to trade that had disadvantaged suppliers and users in remote locations (relevant areas include professional services such as software development, consultancy and advisory services, etc.). A growing number of

[17] https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.html

[18] https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.html

governments has gradually exposed previous monopoly domains to competition; telecommunication is a case in point.[19]

This reflects a basic change in attitudes. The traditional framework of public service increasingly proved inappropriate for operating some of the most dynamic and innovative segments of the economy, and governments apparently lacked the entrepreneurial spirit and financial resources to exploit fully existing growth potential.[20]

Services have recently become the most dynamic segment of international trade. Since 1980, world services trade has grown faster, albeit from a relatively modest basis, than merchandise flows. Defying wide-spread misconceptions, developing countries have strongly participated in that growth. Between 1990 and 2000 their services exports, consisting mainly of tourism and travel services, grew 3 per cent more rapidly per annum, on a balance-of-payments basis, than developed countries' exports.[21]

Given the continued momentum of world services trade, the need for internationally recognized rules became increasingly pressing.[22]

3.3 Functions of WTO

The WTO's curtain objective is to help trade flow smoothly, freely and predictably. It does this by:

- **administering trade agreements**
- **acting as a forum for trade negotiations**
- **settling trade disputes**
- **reviewing national trade policies**

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[19]https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.html
[20]https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.html
[21]https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.html
[22]https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.html

- **building the trade capacity of developing economies**
- **cooperating with other international organizations**

I. Administering trade agreements

WTO manages all the trade agreements. It keeps a record of the agreements and uses it when needed.

If a member state needs any kind of data of any accord /treaty / agreements, it can ask WTO to produce and provide to it.

Many states join any treaty after the meetings are over and treaty is enforced upon the participating members.

Then the agreements are kept at a safe place where it can be traced and stored for long time. WTO keeps all the records and produces it when needed.

II. Acting as a forum for trade negotiations

WTO acts as a forum to negotiate trade among the member states. Ministerial conference is held in every two years. This conference is held in the Headquarter of the WTO.

Headquarter of the WTO is situated at Geneva, Switzerland.

WTO organizes all the meetings, counsels meetings and other delegations etc.

III. Settling trade disputes

WTO has Dispute Settlement Body (DSB) which settles all the trade related disputes. Any member state have any dispute with other member state can rise it dispute to the WTO.

The members of councils of states act as dispute settlement body.

They try to settle down the dispute between the members. The dispute settlement body of the WTO is very good. This has successfully settled more than 500 disputes since creation of the WTO.

Disputes are settled in short time than the other courts and they also try to find a method in which no state gets in the loss. This forum acts as a medium to arbitration and negotiation.

IV. Reviewing national trade policies

WTO has a committee which is called Trade policy review committee. Basically it reviews the policies of the member states and let the WTO know whether it is according to the rules of the WTO or not. It is one of the most important committees because it helps other member states know about the trade policies of the particular state.

This also helps in joining of the WTO for new member state.

Before joining the WTO new states are kept in observation stage where their policies and laws for the trade are checked.

V. Building the trade capacities of developing economies

WTO also helps the developing nations to build their trade capacities. WTO helps them in negotiation with other member states and helps in their law making.

WTO also advocates for the grant relief in the tariffs if any state is in need.

VI. Cooperating with other international organizations

WTO also makes Cooperation with other international Organization e.g. International court of justice, World Intellectual Property Organization etc.

WTO communicates with them, aid them when needed. There is cooperation among the International Organization. Any one of them can get help from any other according to their need

3.4 Structure of WTO

The WTO has 164 members, accounting for 98% of world trade. A total of 25 countries are negotiating membership.

Decisions are made by the entire membership. This is typically by consensus. A majority vote is also possible but it has never been used in the WTO, and was extremely rare under the WTO's predecessor, the GATT. The WTO's agreements have been ratified in all members' parliaments.

The WTO's top level decision- making body is the **Ministerial Conference**, which meets usually every two years.

Below this is the General Council (normally ambassadors and heads of delegation based in Geneva but sometimes officials sent from members' capitals) which meets several times a year in the Geneva headquarters. The General Council also meets as the Trade Policy Review Body and the Dispute Settlement Body.

At the next level, the Goods Council, Services Council and Intellectual Property (TRIPS) Council report to the General Council.

Numerous specialized committees, working groups and working parties deal with the individual agreements and other areas, such as the environment, development, membership applications and regional trade agreements.

• 3.4.1 WTO Secretariat

The WTO Secretariat, based in Geneva, has around 620 staff and is headed by a Director- General. It does not have branch offices outside Geneva. Since decisions are taken by the WTO's members, the Secretariat does not itself have a decision-making role.

The Secretariat's main duties are to supply technical support for the various councils/ committees and the ministerial conferences, to provide technical assistance for developing economies, to analyze world trade and to explain WTO activities to the public and media.

The Secretariat also provides some forms of legal assistance in the dispute settlement process and advises governments wishing to become members of the WTO. The annual budget contributed by members is roughly 197 million Swiss francs.

• 3.5 How a new State can join WTO

Any state or customs territory having full autonomy in the conduct of its trade policies may join ("accede to") the WTO, but WTO members must agree on the terms. Broadly speaking the application goes through four stages:

First, "tell us about yourself". The government applying for membership has to describe all aspects of its trade and economic policies that have a bearing on WTO agreements. This is submitted to the WTO in a memorandum which is examined by the working party dealing with the country's application. These working parties are open to all WTO members.

Second, "work out with us individually what you have to offer". When the working party has made sufficient progress on principles and policies, parallel bilateral talks begin between the prospective new member and individual countries. They are bilateral because different countries have different trading interests. These talks cover tariff rates and specific market access commitments, and other policies in goods and services. The new member's commitments are to apply equally to all WTO members under normal non-discrimination rules, even though they are negotiated bilaterally. In other words, the talks determine the benefits (in the form of export opportunities and guarantees) other WTO members can expect when the new member joins. (The talks can be highly complicated. It has been said that in some cases the negotiations are almost as large as an entire round of multilateral trade negotiations.)

Third, "let's draft membership terms". Once the working party has completed its examination of the applicant's trade regime, and the parallel bilateral market access negotiations are complete, the working party finalizes the terms of accession. These appear in a report, a draft membership treaty ("protocol of accession") and lists ("schedules") of the member-to-be's commitments.

Finally,"The decision". The final package, consisting of the report, protocol and lists of commitments, is presented to the WTO General Council or the Ministerial Conference. If a two-thirds majority of WTO members vote in favor, the applicant is free to sign the protocol and to accede to the organization. In many cases, the country's own parliament or legislature has to ratify the agreement before membership is complete.

3.6Principles of WTO

WTO manages many agreements such as GATT, GATS, TRIPs and TRIMs etc. thus each agreement has its own principles. But ultimately every agreement it manages has a same goal to promote and increase the global trade. Every agreement has a specific reason for its convention. GATT has its principles to promote the trade of goods where the GATS is signed to promote the trade in service sector.

- ### 3.6.1 Discrimination free trade

Most-favored-nation (MFN):treating other people equally Under the WTO agreements, countries cannot normally discriminate between their trading partners.

Grant someone a special favor (such as a lower customs duty rate for one of their products) and you have to do the same for all other WTO members.[23]

This principle is known as most-favored-nation (MFN) treatment (see box). It is so important that it is the first article of the General Agreement on Tariffs and Trade (GATT), which governs trade in goods. MFN is also a priority in the General Agreement on Trade in Services (GATS) (Article 2) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (Article 4), although in each agreement the principle is handled slightly differently. Together, those three agreements cover all three main areas of trade handled by the WTO.[24]

Some exceptions are allowed. For example, countries can set up a free trade agreement that applies only to goods traded within the group — discriminating against goods from outside. Or they can give developing countries special access to their markets. Or a country can raise barriers against products that are considered to be traded unfairly from specific countries. And in services, countries are allowed, in limited circumstances, to discriminate. But the agreements only permit these exceptions under strict conditions. In general, MFN means that every time a country lowers a trade barrier or opens up a market, it has to do so for the same goods or services from all its trading partners — whether rich or poor, weak or strong.[25]

3.6.2 National treatment: Treating foreigners and locals equally imported and locally-produced goods should be treated equally — at least after the foreign goods have entered the market. The same should apply to foreign and domestic services, and to foreign and local trademarks, copyrights and patents. This principle of "national treatment" (giving others the same treatment as one's own nationals) is also found in all the three main WTO agreements (Article 3 of GATT, Article 17 of GATS and Article 3 of TRIPS), although once again the principle is handled slightly differently

[23] https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.html
[24] https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.html
[25] https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.html

in each of these.[1]National treatment only applies once a product, service or item of intellectual property has entered the market. Therefore, charging customs duty on an import is not a violation of national treatment even if locally-produced products are not charged an equivalent tax.[26]

3.6.3 Freer trade: gradually, through negotiation

Lowering trade barriers is one of the most obvious means of encouraging trade. The barriers concerned include customs duties (or tariffs) and measures such as import bans or quotas that restrict quantities selectively. From time to time other issues such as red tape and exchange rate policies have also been discussed.[27]

Since GATT's creation in 1947-48 there have been eight rounds of trade negotiations. A ninth round, under the Doha Development Agenda, is now underway. At first these focused on lowering tariffs (customs duties) on imported goods. As a result of the negotiations, by the mid-1990s industrial countries' tariff rates on industrial goods had fallen steadily to less than 4%.[28]

But by the 1980s, the negotiations had expanded to cover non-tariff barriers on goods, and to the new areas such as services and intellectual property.[29]

Opening markets can be beneficial, but it also requires adjustment. The WTO agreements allow countries to introduce changes gradually, through "progressive liberalization". Developing countries are usually given longer to fulfil their obligations.[30]

3.6.4 Predictability: through binding and transparency

Sometimes, promising not to raise a trade barrier can be as important as lowering one, because the promise gives businesses a clearer view of their future opportunities.

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[26]https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.html
[27]https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm
[28]https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.html
[29]https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.html
[30]https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.html

With stability and predictability, investment is encouraged, jobs are created and consumers can fully enjoy the benefits of competition — choice and lower prices. The multilateral trading system is an attempt by governments to make the business environment stable and predictable.[31]

The Uruguay Round increased bindings

Percentages of tariffs bound before and after the 1986-94 talks

	Before	After
Developed countries	78	99
Developing countries	21	73
Transition economies	73	98

(These are tariff lines, so percentages are not weighted according to trade volume or value)[32]

In the WTO, when countries agree to open their markets for goods or services, they "bind" their commitments. For goods, these bindings amount to ceilings on customs tariff rates. Sometimes countries tax imports at rates that are lower than the bound rates. Frequently this is the case in developing countries. In developed countries the rates actually charged and the bound rates tend to be the same.[33]

A country can change its bindings, but only after negotiating with its trading partners, which could mean compensating them for loss of trade. One of the achievements of the Uruguay Round of multilateral trade talks was to increase the amount of trade

[31] https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm
[32] https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm
[33] https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm

under binding commitments (see table). In agriculture, 100% of products now have bound tariffs. The result of all this: a substantially higher degree of market security for traders and investors.[34]

The system tries to improve predictability and stability in other ways as well. One way is to discourage the use of quotas and other measures used to set limits on quantities of imports — administering quotas can lead to more red-tape and accusations of unfair play. Another is to make countries' trade rules as clear and public ("transparent") as possible. Many WTO agreements require governments to disclose their policies and practices publicly within the country or by notifying the WTO. The regular surveillance of national trade policies through the Trade Policy Review Mechanism provides a further means of encouraging transparency both domestically and at the multilateral level.[35]

3.6.5Promoting fair competition

The WTO is sometimes described as a "free trade" institution, but that is not entirely accurate. The system does allow tariffs and, in limited circumstances, other forms of protection. More accurately, it is a system of rules dedicated to open, fair and undistorted competition.[1]

The rules on non-discrimination — MFN and national treatment — are designed to secure fair conditions of trade. So too are those on dumping (exporting at below cost to gain market share) and subsidies. The issues are complex, and the rules try to establish what is fair or unfair, and how governments can respond, in particular by charging additional import duties calculated to compensate for damage caused by unfair trade.[2]

Many of the other WTO agreements aim to support fair competition: in agriculture, intellectual property, services, for example. The agreement on government

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[34]https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.html
[35]https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.html

procurement (a "plurilateral" agreement because it is signed by only a few WTO members) extends competition rules to purchases by thousands of government entities in many countries. And so on.[36]

- ### 3.6.6Encouraging development and economic reform

The WTO system contributes to development. On the other hand, developing countries need flexibility in the time they take to implement the system's agreements. And the agreements themselves inherit the earlier provisions of GATT that allow for special assistance and trade concessions for developing countries.[37]

Over three quarters of WTO members are developing countries and countries in transition to market economies. During the seven and a half years of the Uruguay Round, over 60 of these countries implemented trade liberalization programmes autonomously. At the same time, developing countries and transition economies were much more active and influential in the Uruguay Round negotiations than in any previous round, and they are even more so in the current Doha Development Agenda.[38]

At the end of the Uruguay Round, developing countries were prepared to take on most of the obligations that are required of developed countries. But the agreements did give them transition periods to adjust to the more unfamiliar and, perhaps, difficult WTO provisions particularly so for the poorest, "least-developed" countries. [39]

A ministerial decision adopted at the end of the round says better-off countries should accelerate implementing market access commitments on goods exported by the least-developed countries, and it seeks increased technical assistance for them. More

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[36]https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.html
[37]https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.html
[38]https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.htm
[39]https://www.wto.org/english/thewto_e/whatis_e/tif_e/fact2_e.html

recently, developed countries have started to allow duty-free and quota-free imports for almost all products from least-developed countries. On all of this, the WTO and its members are still going through a learning process. The current Doha Development Agenda includes developing countries' concerns about the difficulties they face in implementing the Uruguay Round agreements.[40]

3.7 Impact of WTO on trade system

Over the past decades, international trade has grown considerably. A broad range of factors are behind this trend, including the widening and deepening of the multilateral trading system. The conclusion of the GATT in 1947 and, more recently, the creation of the WTO in 1995 established a set of trade rules covering agriculture and manufacturing goods, services, and intellectual property rights. Besides trade rules, the WTO also serves as forum to solve disputes, negotiate new rules, and promote transparency of trade policy.

Achieving higher living standards, full employment and sustainable development is the aim of the WTO's member governments, as expressed in the WTO's founding Marrakesh Agreement. The means for achieving this include the "substantial reduction of tariffs and other obstacles to trade".

This process of trade opening takes place in the framework of WTO rules, which take into account the fact that some countries are better equipped than others to open their markets widely. Some countries, for instance, have a more advanced legal, regulatory and physical infrastructure than others.

Generally speaking,it is easier for developed countries to open their markets than for many developing countries.

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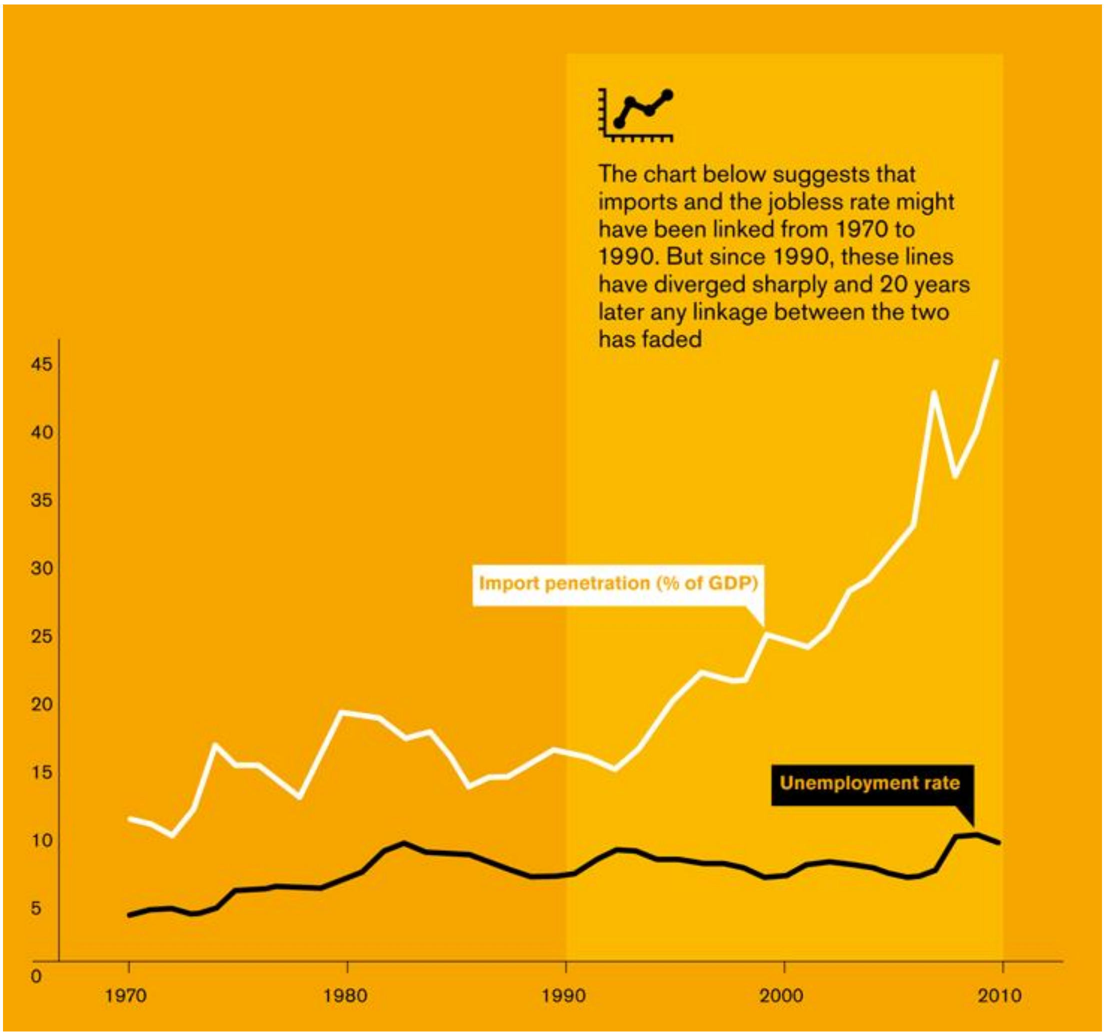
As a result, average tariffs (import duties) in developed countries, at least for manufactured goods, are much lower than in developing countries — although this is not true in every case or for every product.Open economies tend to grow faster and more steadily than closed economies and economic growth is an important factor in job creation. Profitable companies tend to hire more workers than those posting a loss. Trade can also be a catalyst for greater efficiency and productivity. This is because companieshave access to a wider range of high-quality, affordable inputs. They also have access to technology and know-how they could not obtain in a closed economy. Access to technology and quality inputs can boost innovation and creativity in the workplace.

Moreover, competition in the marketplace can be a powerful stimulus to companies seeking new ways of making things better and more cheaply. An infusion of new ideas from other countries can make companies more productive. So can enhanced access to export markets. But doing things more productively often means doing more with less and that can mean using fewer workers. Inevitably, this means that some workers in some industries will lose their jobs.

This is part of what economists call **"churn"** and what the Austrian-American economist **Joseph Schumpeter** termed **"creative destruction".** It has been part of economic life for centuries and it can bring pain. But historytells us that countries seeking to block incoming goods, services or ideas often find their economies stagnating.

It is important to acknowledge that while trade holds real benefits for most people, most of the time — consumers as well as producers — there are people who are hurt by trade. Recognizing that trade can be a threat is important socially and politically. Workers who have lost their jobs need support and polls strongly suggest that people are far more likely to favor trade opening if they know that such support will be available. This is why governments need to maintain effective social programs that can protect workers who lose their jobs through trade and help train them to find new jobs.[41]



The 23 countries are Australia, Austria, Belgium, Canada, Denmark, Finland, France, Germany and West Germany (until 1991), Iceland, Italy, Japan, Korea, Luxembourg, Netherlands, New Zealand, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, UK, US.[42]

[41] https://www.wto.org/english/thewto_e/whatis_e/10thi_e/10thi03_e.html
[42] https://www.wto.org/english/thewto_e/whatis_e/10thi_e/10thi03_e.htm

Source: Newfarmer, R. and Sztajerowska M. (2012), "Trade and Employment in a Fast-Changing World", in OECD (2012), Policy Priorities for International Trade and Jobs, Douglas Lippoldt (ed.), OECD, Paris.

But if the link between trade and jobs is complex, one thing is straightforward: protectionism does not protect jobs, or does so at a very high cost which can adversely impact employment elsewhere in an economy. This is particularly true today in our ever more interconnected global economy.

The proliferation of global value chains means that production and sourcing now take place across many frontiers. Products are rarely made in a single country but rather are assembled using parts and services from many countries.

Participation in these chains would be seriously undermined if the goods and services needed to make these products were rendered more expensive or harder to find.[4]

Moreover, there are many jobs in all countries that are directly related to imports, particularly in industries like retail, shipping, express delivery and logistics. The adage that exports are good and imports are bad has always been a dubious one and today this is more clear-cut than ever before.

In the information and communications technology sector, developing countries such as Malaysia, Mauritius and Egypt have benefited enormously from opening their markets, achieving high levels of employment in this area. Developed countries such as Finland, Sweden and Ireland have followed a similar approach, leading to economic growth and new job opportunities.

While trade can put some jobs under threat, most economists believe technological advances contribute far more than trade to job loss, particularly for low-skill jobs. When the automobile was invented, it was bad news for blacksmiths and horse breeders. The electric light was problematic for candle makers. But of course, these innovations created millions of jobs in the automobile and lighting sectors.

The OECD has charted the impact of imports on the jobless rate in 23 countries. While the correlation between the rate of import penetration and unemployment may have suggested a linkage between the two during the period 1970-90, the last 20 years have been a different story. Beginning in 1990, these lines diverged sharply and today any linkage between the two has faded.

Jobs that are tied to trade tend to pay better than those that are not. In Western Europe, those working in export-oriented companies collect a 10% -20% wage premium over the average wage. In the United States, the premium is 6% and in Sub-Saharan Africa the figure is 34%.

Overall, wages in economies that are open are higher than in closed economies. Workers in the manufacturing sector in open economies earn three to nine times more than those in closed economies.

But as with most things, the picture is neither all black nor all white. Trade promotes greater productivity, and higher productivity leads to larger salaries. But there is also strong evidence suggesting that wages in some sectors in advanced countries are suppressed when those sectors are exposed to competition from lower- wage countries. There is research that shows,as well, that in some cases trade can contribute to greater income inequality in some sectors.

As we said at the beginning, the relationship between trade and employment is complex and the impact of trade on employment cannot be assessed in a vacuum. Many other factors are tied to sustainable job creation. In some cases, rapid opening of trade may be the wrong policy. Without adequate physical, institutional and legal infrastructure, the benefits of more open trade can be lost.

And yet greater openness has helped many countries in reducing poverty. In Asia today, less than 20% of the people live in absolute poverty. In 1975, it was 60% . In Africa today, for the first time, fewer than half the people live in such poverty. Trade has been an important component in the development and poverty alleviation in both regions.

Trade is an important tool and we know that without it, growth, job creation and development are more difficult to attain. But trade is not a panacea.[43]

The creation of the GATT/WTO has generated significant trade gains for its members but also non-members. Our research shows that, on average, GATT/WTO membership increased trade between members by 171% and trade between member and non-member countries by about 88%. Part of this positive effect of GATT/WTO membership on trade between members as well as trade between member and non-member stems from the non-preferential nature of some of the GATT/WTO commitments that gravity models have so far neglected. Commitments to notify trade policy changes, to avoid unnecessarily restrictive technical regulations, or to remove export subsidies in agriculture are some examples of WTO rules that increase transparency and reduce the uncertainty of trade policy to the benefit of members and non-members.[44]

[43]https://www.wto.org/english/thewto_e/whatis_e/10thi_e/10thi03_e.htm
[44]https://voxeu.org/article/trade-effects-wto

CHAPTER –VI

RELATION BETWEEN GATT AND WTO

4.1 Advancements of WTO from GATT

GATT (general Agreement on trade and tariff) was established to promote the free trade of the goods. But at the time it was established mainly the trade was limited to the goods only there no concept of the services or it may be under development.

Thus no one thought about the services like there may be a trade of the services. But now in these days service sector is no less than the Goods. In India service sector has a impressive and capital share in the GDP (Gross domestic Production).

So every country has a big service sector in their nation.

But GATT does not include service sector that means there was no organization which can control and manage the service sector. Here the need of an organization was arise which could solve all such issues. States members was also limited entire world has not participated in this organization.

Member states could break the law easily it has no strong sanctions upon such nations. Thus the policy makers started thinking about the a new organization which can manage everything and which is according to the new world of the Globalization and technology.

The law is not static it keeps on changing time to time thus a old things has be renewed for time to time. After some High level meetings of the important ministers of the states, a resolution was passed to constitute a body which can manage all this and which is according to the need of the time.

4.2 Problems In GATT

Gatt basically deals in Goods thus it has a limited Scope. The Requirement for Expansion was sought from the Uruguay Round which occurred since 1086 to 1993. And a new organization was established after it which is called World trade Organization.(WTO).

4.2.1 Limited Scope-

The GATT sets rules for the trading of the goods only thus it has a limited scope. It did not include service sector which is huge in this time. It did not promote Competition, inventions, and many more.

By the time, more things needed to be regulated and included in the Gatt thus a fresh new organization was established to cover Goods, services, All traded inventions, creations, and designs (intellectual Property) also.

4.2.2 Poor dispute settlement body-

The dispute settlement body was not very good in compare to the new dispute settlement body under the W.T.O.

There were many more numerous reasons which lead to closure of the Gatt and establishment of the W.T.O.

4.3 Rounds

Meetings of the member nations are called round, each round may include more than one meeting of the ministers or representatives of the member states. During the GATT there were eight rounds held and in the last round the WTO was discussed and signed along with other agreements.

During the GATT (General Agreement on Tariffs and Trade) years, eight rounds of tariff negotiations were held between 1947 and 1994: Geneva (1947), Annecy (1949), Torquay (1950-51), Geneva (1956), Geneva (1960-61) - also known as the Dillon

Round, the Kennedy Round (1964-67), the Tokyo Round (1973-79) and the Uruguay Round (1986-94).[1]

In the first rounds, negotiations were conducted on a product-by-product basis (known as the "request/offer" approach), whereby GATT contracting parties exchanged lists of requests and offers on products of interest to them in order to reach agreement on tariff concessions.[2]

- ## 4.3.1 GATT trade rounds

Year	Place/name	Subjects covered	Countries
1947	Geneva	Tariffs	23
1949	Annecy	Tariffs	13
1951	Torquay	Tariffs	38
1956	Geneva	Tariffs	26
1960-1961	Geneva Dillon Round	Tariffs	26
1964-1967	Geneva Kennedy Round	Tariffs and anti-dumping measures	62

1973-1979	Geneva Tokyo Round	Tariffs, non-tariff measures, "framework" agreements	102
1986-1994	Geneva Uruguay Round	Tariffs, non-tariff measures, rules, services, intellectual property, dispute settlement, textiles, agriculture, creation of WTO, etc	123

Here it is evident that the creation of GATT led nations to negotiate for the tariff rates on the products. Most of the times meeting were held to negotiate the tariff rates among the member states.

4.4 Exception to Nations for Trade

Though the main objective of the GATT and WTO is to reduce the trade barriers but there are some exceptions where these agreements increases the tariff and imposes duty on the some products. The other free trade agreements also allowed where these rules of the WTO are not imposed.

1. **NAFTA**
2. **Anti Dumping Duties**
3. **Counter veiling duties**

Exceptions are provided to counter any bad effect of the trade rules. It may be used in specific situations where there is need of any special act.

1.4.1. NAFTA

NAFTA stands for North American Free Trade Agreement.

- **What Is the North American Free Trade Agreement**

The North American Free Trade Agreement (NAFTA) was implemented to promote trade between the U.S., Canada, and Mexico. The agreement, which eliminated most tariffson trade between the three countries, went into effect on Jan. 1, 1994. Numerous tariffs—particularly those related to agricultural products, textiles, and automobiles—were gradually phased out between Jan. 1, 1994, and Jan. 1, 2008.

- **Understanding NAFTA**

NAFTA's purpose was to encourage economic activity among North America's three major economic powers: Canada, the U. S., and Mexico. Proponents of the agreement believed that it would benefit the three nations involved by promoting freer trade and lower tariffs among Canada, Mexico, and the United States.

During the 2016 presidential election, Donald Trump campaigned on a promise to repeal NAFTA and other trade agreements he deemed "unfair" to the United States.

On Aug. 27, 2018, President Donald Trump announced a new trade deal with Mexico to replace NAFTA. The U.S.-Mexico Trade Agreement, as it was called, would maintain duty-free access for agricultural goods on both sides of the border and eliminate non-tariff barriers while also encouraging more agricultural trade between Mexico and the United States.

On Sept. 30, 2018, this agreement was modified to include Canada. The United States-Mexico-Canada Agreement (USMCA) took effect on July 1, 2020, completely replacing NAFTA. If not renewed, the USMCA will expire in 16 years.

A Sept. 30, 2018, joint press release from the U.S. and Canada Trade Offices stated:

"USMCA will give our workers, farmers, ranchers, and businesses a high-standard trade agreement that will result in freer markets, fairer trade, and robust economic growth in our region. It will strengthen the middle class and create good, well-paying jobs and new opportunities for the nearly half billion people who call North America home."[1]

- ## History of NAFTA

About one-fourth of all U.S. imports, such as crude oil, machinery, gold, vehicles, fresh produce, livestock, and processed foods, originate from Mexico and Canada, which are, respectively, the United States' second- and third-largest suppliers of imported goods, as of 2019.[2 3] In addition, approximately one-third of U.S. exports, particularly machinery, vehicle parts, mineral fuel/oil, and plastics are destined for Canada and Mexico.[4]

NAFTA legislation was developed during George H. W. Bush's presidency as the first phase of his Enterprise for the Americas Initiative. The Clinton administration, which signed NAFTA into law in 1993, believed it would create 200,000 U.S. jobs within two years and 1 million within five years because exports play a major role in U.S. economic growth. The administration anticipated a dramatic increase in U.S. imports from Mexico as a result of the lower tariffs.

- ## What is NAFTA

- Additions to NAFTA

NAFTA's provisions were supplemented by two other regulations: the North American Agreement on Environmental Cooperation (NAAEC) and the North American Agreement on Labor Cooperation (NAALC). These tangential agreements were intended to prevent businesses from relocating to other countries to exploit lower wages, more lenient worker health and safety regulations, and looser environmental regulations.

NAFTA did not eliminate regulatory requirements on companies wishing to trade internationally, such as rule-of-origin regulations and documentation requirements that determine whether certain goods can be traded under NAFTA.

The free trade agreement also contained administrative, civil, and criminal penalties for businesses that violate any of the three countries' laws or customs procedures.

- **North American Industry Classification System**

The three NAFTA signatory countries developed a new collaborative business-classification system that facilitates comparison of business activity statistics across North America. The North American Industry Classification System (NAICS) organizes and separates industries according to their production processes.

The NAICS replaced the U.S. StandardIndustrialClassification (SIC) system, allowing businesses to be classified systematically in an ever-changing economy. The new system enables easier comparability between all countries in North America. To ensure that the NAICS remains relevant, the system is reviewed every five years.

The three parties responsible for the formation and continued maintenance of the NAICS are the Instituto Nacional de Estadística y Geografía in Mexico, Statistics Canada, and the United States Office of Management and Budget through its Economic Classification Policy Committee, which also includes the Bureau of Economic Analysis, Bureau of Labor Statistics, and the Bureau of Census. The first version of the classification system was released in 1997. A revision in 2002 reflected the substantial changes occurring in the information sector. The most recent revision, in 2017, created 21 new industries by reclassifying, splitting, or combining 29 existing industries.

This classification system allows for more flexibility than the SIC's four-digit structure by implementing a hierarchical six-digit coding system and classifying all economic activity into 20 industry sectors. Five of these sectors are primarily those that produce goods, and the remaining 15 sectors provide some type of service. Every company receives a primary NAICS code that indicates its main line of business. A company receives its primary code based on the code definition that generates the largest portion of the company's revenue at a specified location in the past year.

The first two digits of a NAICS code indicate the company's economic sector. The third digit designates the company’s subsector. The fourth digit indicates the company's industry group. The fifth digit reflects the company’s NAICS industry, and the sixth designates the company’s specific national industry.

- **Advantages and Disadvantages of NAFTA**

NAFTA's immediate aim was to increase cross-border commerce in North America, and it did indeed spur trade and investment among its three member countries by limiting or eliminating tariffs. It was especially advantageous to small or mid-size businesses, because it lowered costs and did away with the requirement of a company to have a physical presence in a foreign country to do business there.

Most of the increase came from trade between the U.S and Mexico or between the U.S. and Canada., though Mexico-Canada trade grew as well. Overall, there was $1.0 trillion in trilateral trade from 1993 to 2015, a 258.5% increase in nominal terms (125.2%, when adjusted for inflation). Real per-capita gross domestic product (GDP) also grew slightly in all three countries, primarily Canada and the U.S.

NAFTA protected non-tangible assets like intellectual property, established dispute-resolution mechanisms, and, through the NAAEC NAALC) side agreements implemented labor and environmental safeguards. It increased U.S. competitiveness abroad and "exported" higher U.S. workplace safety and health standards to other nations.

From the beginning, NAFTA critics were concerned that the agreement would result in U.S. jobs relocating to Mexico, despite the supplementary NAALC. In fact, many companies did subsequently move their manufacturing operations to Mexico and other countries with lower labor costs—in particular, thousands of U.S. auto workers and garment-industry workers were affected in this way. However, NAFTA may not have been the reason for all those moves.

During the NAFTA years, U.S. trade deficits (importing more from a nation than you export) did increase, especially with Mexico. So did inflation.

Some critics also cite the rising wave of Mexican immigrants to the U.S. as a result of NAFTA—partly because the expected convergence of U.S. and Mexican wages didn't happen, thus making the U.S. more attractive to Mexican workers.

Pros

- A spurred surge in cross-border trade and investment
- Increased competitiveness of U.S. industry
- Opened up opportunities for small businesses
- Implemented universal, higher health, safety, and environmental standards

Cons

- Caused loss of manufacturing jobs, especially in certain industries
- Increased inflation in the U.S.
- Increased U.S. trade deficits
- May have spurred Mexican immigration
    - **NAFTA vs. USMCA**

The U.S.-Mexico-Canada Agreement (USMCA) entered into force on July 1, 2020. Basically, it builds on NAFTA, using the older legislation as a basis for a new agreement. But it does have some differences.

Some are simple updates, expanding the tariff ban on new technologies and industries. Most notably, the USMCA prohibits tariffs on digital music, e-books, and other digital products. The agreement also establishes copyright safe harbor for internet companies, meaning they can't be held liable for copyright infringements by users.

Another change moves the labor and environmental protections of the original side agreements into the main agreement, meaning issues like the right to organize are now subject to the pact's normal procedures for settling disputes.

In particular, it revised and toughened labor laws relating to Mexico, establishing an independent investigatory panel that can investigate companies accused of violating workers' rights, and stop shipments from those found to be in violation of labor laws. It also compelled Mexico to enact a wide array of labor reforms, to improve working conditions and increase wages.[7]

Here are some other distinctions between the two agreements, indicating qualifications for tariff-free status and other rules.

- **Comparing NAFTA and USMCA**

Provision	**NAFTA**	**USMCA**
autos	62.5% of vehicle components must be made in North America	75% of components be North American in origin; 40%-45% of parts be from a factory paying $16/hour
pharmaceuticals	protections for certain drug classes from cheaper alternatives	protections eliminated
dairy	protected market in Canada, limiting access	allows U.S. farmers access to up to 3.6% of the Canadian market and vice versa
investor-state dispute	allows companies to sue	eliminated, except for certain

- **Comparing NAFTA and USMCA**

settlement mechanism	governments for unfair treatment	Mexican industries
intellectual-property protections	50 years	70 years
treaty sunset provision	None	treaty to be reviewed after 6 years; expires after 16 years unless extended

What Was the Main Goal of NAFTA?

NAFTA aimed to create a free trade zone between the U.S., Canada, and Mexico. The goal was to make doing business in Mexico and Canada less expensive for U.S. companies (and vice versa), reducing the red tape needed to import or export goods.

How Did NAFTA Work

Among its three member nations, NAFTA eliminated tariffs and other trade barriers to agricultural and manufactured goods, along with services. It also removed investment restrictions and protected intellectual property rights. Finally, its provisions addressed environmental and labor concerns, attempting to establish a common high standard in each country.

Is NAFTA Still in Effect

No, NAFTA was effectively replaced by the United States-Mexico-Canada Agreement (USMCA). Signed on Nov. 30, 2018, it went into full effect on July 1, 2020.

4.4.2 ANTI-DUMPING DUTIES

Anti dumping duties are the duties which are imposed by the importing nations upon such things which are being dump in the nation. This dumping causes loss to the local manufacturers and industries.

- **What is Dumping ?**

When a nation or company dump their goods in the importing nation at price of which is less than the manufacturing cost of the product, that is called predatory pricing. And this situation is called dumping. Company or the exporting nation do this to ruin the industries of the importing nation so that when the industries of the importing nation are shut then there will be monopoly of the exporting country. After that price of the product will be increased and they will make dominate the market of the product. This should be stopped at once so that the competition could sustain in the market.

- **What Is an Anti-Dumping Duty?**

An anti-dumping duty is a protectionist tariff that a domestic government imposes on foreign imports that it believes are priced below fair market value. Dumping is a process wherein a company exports a product at a price that is significantly lower than the price it normally charges in its home (or it's domestic) market.

In order to protect their respective economy, many countries impose duties on products they believe are being dumped in their national market because these products have the potential to undercut local businesses and the local economy.

- **Understanding Anti-Dumping Duties**

In the U.S., the International Trade Commission (ITC)–an independent government agency–is tasked with imposing anti-dumping duties. Their actions are based on recommendations they receive from the U.S. Department of Commerce and investigations by the ITC and/or the Department of Commerce.

In many cases, the duties imposed on these goods, exceeds the value of the goods. Anti-dumping duties are typically levied when a foreign company is selling an item significantly below the price at which it is being produced.

While the intention of anti-dumping duties is to save domestic jobs, these tariffs can also lead to higher prices for domestic consumers. And, in the long-term, anti-dumping duties can reduce the international competition of domestic companies producing similar goods.

The World Trade Organization (WTO) is an international organization that deals with the rules of trade between nations. The WTO also operates a set of international trade rules, including the international regulation of anti-dumping measures. The WTO does not intervene in the activities of companies engaged in dumping. Instead, it focuses on how governments can—or cannot—react to the practice of dumping.[2] In general, the WTO agreement permits governments to act against dumping "if it causes or threatens material injury to an established industry in the territory of a contracting party or materially retards the establishment of a domestic industry."

This intervention must be justified in order to uphold the WTO's commitment to free-market principles.Anti-dumping duties have the potential to distort the market. In a free market, governments cannot normally determine what constitutes a fair market price for any good or service.

- **Example of an Anti-Dumping Duty**

In June 2015, American steel companies United States Steel Corp., Nucor Corp., Steel Dynamics Inc., ArcelorMittal USA, AK Steel Corp., and California Steel Industries, Inc. filed a complaint with the U.S. Department of Commerce and the ITC. Their complaint alleged that several countries, including China, were dumping steel into the U.S. market and keeping prices unfairly low.

After conducting a review, one year later the U.S. announced that it would be imposing a total of **522%** combined anti-dumping and countervailing import duties on certain steel imported from China. In 2018, China filed a complaint with the WTO challenging the tariffs imposed by the Trump administration. Since then, the Trump administration has continued to use the WTO to challenge what it claims are unfair trading practices by the Chinese government and other trading partners.[45]

4.4.3Counter-veiling Duties

Counter veiling duties are imposed to counter the subsidies provided by the government of exporting country on such particular products. When a government provides subsidy to reduce the price of the exporting product and that particular product harms the importing countries industries then the importing country may apply counter veiling duty to increase the price of the product. This is done to sustain the competition in the market and small business don't get ruined because of the cheap or anti competitive pricing of the product.

- **What Are Countervailing Duties?**

Countervailing Duties are tariffs levied on imported goods to offset subsidies made to producers of these goods in the exporting country. CVDs are meant to level the playing field between domestic producers of a product and foreign producers of the

[45] https://www.investopedia.com/terms/a/anti-dumping-duty.asp

same product who can afford to sell it at a lower price because of the subsidy they receive from their government.

- **How Countervailing Duties Work**

Countervailing duties (CVDs) are a key regulation meant to neutralize the negative effects that subsidies of the production of a good in one country have on that same industry in another country, in which the production of that good is not subsidized. If left unchecked, such subsidized imports can have a severe effect on the domestic industry, forcing factory closures and causing huge job losses. As export subsidies are considered to be an unfair trade practice, the World Trade Organization (WTO)–which deals with the global rules of trade between nations–has detailed procedures in place to establish the circumstances under which countervailing duties can be imposed by an importing nation.

The WTO's "Agreement on Subsidies and Countervailing Measures," which is contained in the General Agreement on Tariffs and Trade (GATT) 1994, defines when and how an export subsidy can be used and regulates the measures that nations can take to offset the effect of such subsidies. These measures include the affected nation using the WTO's dispute settlement procedure to seek withdrawal of the subsidy, or imposing countervailing duties on subsidized imports that are hurting domestic producers.

- **Example of Countervailing Duties**

Consider the following example of countervailing duties. Assume Country A provides an export subsidy to widget makers in the nation, who export widgets en masse to Country B at $8 per widget. Country B has its own widget industry and domestic widgets are available at $10 per widget. If Country B determines that its domestic widget industry is being hurt by unrestrained imports of subsidized widgets, it may impose a 25% countervailing duty on widgets imported from Country A, so that the resulting cost of the imported widgets is also $10. This eliminates the unfair price advantage that widget makers in Country A have due to the export subsidy from their government.

- **Countervailing Measures and Subsidies**

The definition of "subsidy" in this regard is quite broad. It includes any financial contribution made by a government or government agency, including a direct transfer of funds (such as grants, loans, and infusion of equity), potential direct transfer of funds (for example, loan guarantees), fiscal incentives such as tax credits, and any form of income or price support.[46]

The WTO only permits countervailing duties to be charged after the importing nation has conducted an in-depth investigation into the subsidized exports. The agreement contains detailed rules for determining whether a product is being subsidized and calculating the amount of such subsidy, criteria for establishing whether these subsidized imports are affecting the domestic industry, and rules for the implementation and duration of countervailing duties, which is typically five years.

4.5Easement of trade through WTO

WTO has made the trade more easy among the nations it has reduced trade barriers so that the trade could increase. Moreover that WTO has also adopted the many measures and applied trade regulations so that export and import of the things could increase. MFN clause reduced the trade barriers and reduced the tariff also.

Reducing the tariff on the products was the main and most important objective of the accord. When the GATT was signed most of the meetings were held to reduce the tariff on the listed products.

Reduced tariff help increase the product demand as the cost of the product reduces. People simply demand them more and import of the goods increases. Consumer

[46]https://www.investopedia.com/terms/c/countervailingduties.asp

always buys things more which are cheap and there reduced tariff works in decreasing the price of the goods.

Dispute settlement body of the WTO is much better than previous body. It has successfully settled more than the 500 disputes in last 25 years. Though this trade disputes are settled in time so that time delay in the settlement of trade dispute is decreased which is good for the flow of trade .

When WTO was established many more agreements also enforced with it which do have impact on the trade e.g. TRIMs, TRIPs, GATS.

Those upper noted agreements were also include and signed by the participating nations these agreements helped in the increment of the trade.

4.6Dispute Settlement Body

The General Council convenes as the Dispute Settlement Body (DSB) to deal with disputes between WTO members. Such disputes may arise with respect to any agreement contained in the Final Act of the Uruguay Round that is subject to the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU). The DSB has authority to establish dispute settlement panels, refer matters to arbitration, adopt panel, Appellate Body and arbitration reports, maintain surveillance over the implementation of recommendations and rulings contained in such reports, and authorize suspension of concessions in the event of non-compliance with those recommendations and rulings.

Resolving trade disputes is one of the core activities of the WTO. A dispute arises when a member government believes another member government is violating an agreement or a commitment that it has made in the WTO. The WTO has one of the most active international dispute settlement mechanisms in the world. Since 1995, 603 disputes have been brought to the WTO and over 350 rulings have been issued.

CHAPTER- V

IMPACT OF THE GATT AND WTO ON INDIAN ECONOMY

5.1 Impact of GATT on India

Before the independence, Indian economy was controlled by the British Government. Their policies were against the development of the nation. Their motive was to extort and loot India and to make profit to the British Crown. After the Independence Indian Government policies were very reserved. We were not that much open to the foreign market or we were making our policies which were more protective.

Actually our export was too low. It was around 20 % of the GDP. India participated and became member of GATT but there was not that much improvement in export.

Main benefit of GATT was actually to the developed nations. Our export was facing to high competition and it was hard to sustain in the market.

Indian government was playing safe on the trade. Thus FDI was too low and government was not allowing the higher FDI rates cause of fear to the International trade.

But after the period of Globalization and liberalization in 1991, Indian government started playing in front foot and opened the door of FDI and companies started investing in India.

Before that period most of the trade was internal. Exports were very low. The reason was that we just got independence from the British Empire. We were under developed factories and mills were too few to supply the internal demand. Most of the things were depended on the handy crafts.

It took time for the development. But after the 1991 companies invested in India and trade and export was increased year by year. MNCs knew how to make most of the profits from the exports. Thus the export from India was increased.

Even now there are several MNCs which are producing their products and not selling it Indian market but exports only. E.g. Chevrolet.

Being member India could not get that much Profit as the developed countries got. But still it helped in building trust in our nation and MNCs invested in India which was beneficial for us.

5.2 Impactof WTO on India

Joining the WTO was mostly beneficial for India, Theprinciples and rules agreed by the nations, has some favorable and some non favorable effect on the Nation. Thus here we will look what is favorable and what is not favorable effect on India.

- **Increment in export Business:** Definitely after joining the WTO the export business has been boosted and GDP has increased as the trade barriers and the tariffs has been reduced than before. This will help nation to get more foreign reserve in the nation which will be better for nation.
- ***India's total value of exports (FoB) was 31,699 million in year of 1995.***
- ***India's Total value of merchandise export in financial year of 2019-20 was 314.31 billion USD.***

Thus it is clear that export has been increased rapidly which is a good result of the being member of W.T.O.

1. **Growth in service export:** The W.T.O. introduced the GATS (General Agreement on trade in service) that proved beneficial for countries like India. India's service exports increased from 5 billion USD in 1995 to 214.14 Billion USD in Financial year 2019-20.
2. **Agriculture export**: Reduction of trade barrier and domestic subsidies raise the price of agricultural products in international market, India hopes to benefit from this in the form of higher export earnings from agriculture.

3. **Textiles and clothing**. The phasing out of the MFA (Multi Fiber Arrangements) will help the developing countries like India to increase the export of textile and clothing.
4. **Foreign direct investment**: As per the TRIMs agreement, restrictions on foreign investment have been withdrawn by the member nations of the WTO. This has benefited developing countries by way of foreign direct investment, euro equities and portfolio investment. In 2019-20 the net foreign direct investment in India was 49.97 billion US$

<u>Unfavorable impact:</u>

1.TRIPs (Trade Related aspects of Intellectual Property) : Protection of intellectual property rights has been of the major concerns of the WTO. As a member of the WTO, India has to comply with the TRIPs standards. • However, the agreement on TRIPs goes against the Indian patent act 1970, section 5 in the following way.

i. **Pharmaceutical sector:** Under the Indian patent act 1970, only process patents are granted to chemicals, drugs and medicines. Thus, a company can legally manufacture once it had the product patent .So Indian pharmaceutical companies could sell good quality products at low prices. However under TRIPs agreement, product patents will also be granted that will raise the prices of medicines, thus keeping them out of reach of the poor people, fortunately, most of drugs manufactured in India are off – patents and so will be less affected.

2. Agriculture: Since the agreement on TRIPs extends to agriculture as well; it will have considerable implications on Indian agriculture. The MNG, with their huge financial resources may also take over seed production and will eventually control food production. Since a large majority of Indian population depends on agriculture for their livelihood, these developments will have serious consequences. • Micro – organisms: under TRIPs agreement patenting has been extended to micro organisms as well. These mills largely benefit MNCS and not developing like India.

3. **TRIMs (Trade Related Investment Measures)** : The agreement on TRIMs also favors developing nations as there are no rules in the agreement to formulate international rules for controlling business practices of foreign investors. Also, complying with the TRIMs agreement will contradict our objective of self-reliant growth based on locally available technology and resources.
4. **GATS (General Agreement on Trade in Services):** The agreement on GATS will also favor the developed nations more. Thus, the rapidly growing services sector in India will now have to compete with now have to complete with giant foreign firms. Moreover, since foreign firms are allowed to remit their profits, dividends and royalties to their parent company, it will cause foreign exchange burden for India. But actually in service sector India is in Profit as Indian service **exports** are valued **214.14 billion $ in 2019-20** and **import** of services are valued **131.41 billion $** thus the **total profit is 82.72 billion USD**.
5. **Trade and Non-tariff barriers:** Reduction of trade and non-tariff barriers has adversely affected the exports of various developing nations. Various Indian products have been hit by non-tariff barriers. These include textiles, marine product, floriculture, pharmaceutical basmati rice, carpets, leather goods etc.

5.2.1 Trade Related Aspects of Intellectual Property

Historical background of Trips Agreement

The TRIPs agreement was negotiated during the **Uruguay Round since 1986 to 1994.** And it was signed by all the participating nations on **15th April 1994 in Marrakesh, Morocco**.

This came into effect **on 1 January 1995**. This is to date the most comprehensive multilateral agreement on **intellectual property**.

Unlike other agreements on intellectual property, TRIPS has a powerful enforcement mechanism. States can be disciplined through the WTO's dispute settlement mechanism.

Trips Agreement and its impact on Indian Economy

The Patent system in India indirectly affects the economic growth of India. Now that India has proper laws in place for the protection of intellectual property and their implementation is good enough to place trust on the same, **a number of multinational companies have started their research and development process in India** which has indirectly increased the economic growth of the country with the increase in payment of taxes and providing employment to the people of India.

Ranbaxy is a multinational company founded in **1961** wherein **1,700** people were employed in **2005** and in the year **2012**, the number of employees increased to **10,983**. It is observed that the high rise in the number of employees indirectly increases the economic development of India. **Dr. Reddy** is another Indian multinational company founded in **1984** and **7,525** people were employed in **2006** and in the year of **2018**, the number of employees increased to **23,524** as it can be clearly seen that more than **200%** growth in the number of employees in a company was made possible in 12 years which resulted in increase in the economic growth of the country. The total revenue generated by intellectual property offices of India was Rs. **608.31 crores** in the year **2016-17** while total expenditure was only **Rs. 129.8 crores**. Total revenue generated by patent office was Rs. **410.03 crore** and the remaining were generated by other intellectual property like Trademark, Geographical Indication, Design and Copyright.

Pharmaceutical companies of India are **the third largest** in the world owing to the production of generic drugs at very cheap rates and exporting these drugs to many countries like Africa, Latin America and other Asian countries because the cost of production in India is very low as compared to USA and Europe. According to the report of WIPO (World Intellectual Property Organization) pharmaceutical patent application is the second largest subject matter in India and this was jumped after the year 2005 when India enacted the law that allowed product patents. Pharmaceutical industry of India has grown from 6 billion US Dollar in 2005 to 30 billion US dollar in 2015 and it is expected to go up to 55 billion US Dollar by 2020.

Amendment of Patent Laws after TRIPS Agreement and its effects:

In 1994 India signed the TRIPS agreement and hence Patent Laws of India were further amended according to the TRIPS agreement. Earlier patent was granted only for method or process in India which was amended in compliance with the TRIPS agreement in the year 2005. After that patents are not just granted for method or process but also for products. Advantage of this amendment is taken by various companies and individuals. The number of Indian patent applications has increased after this amendment. Recently, various national and multinational companies started their research and development process and investing in India as the implementation of IP laws in India are better, as compared to earlier patent system in India and various provisions relating to infringement of patent law is defined in Patent Act, 1970.

Year	1999-2000	2001-2002	2004-2005	2005-2006	2009-2010	2012-2013	2015-2016	2016-2017
No. of patent application filed in India	4824	10,592	17,466	24,505	34,287	43,674	46,904	45,444

A survey was conducted on the filing of patent application in India from the year 1999 to 2017. The survey clearly shows a rise in the number of patent application from year to year after the signing of the TRIPS agreement by India and also shows a very high rise in the number of patent application after the years 2004-2005 as section-5 of patent act, 1970 was repealed in the year 2005.

5.2.3Trade Related Investment Measures (TRIMS)

Under the Agreement on Trade-Related Investment Measures of the World Trade Organization (WTO), commonly known as the TRIMs Agreement, WTO members have agreed not to apply certain investment measures related to trade in goods that restrict or distort trade. The TRIMs Agreement prohibits certain measures that violate the national treatment and quantitative restrictions requirements of the General Agreement on Tariffs and Trade (GATT).

The agreement on the Trade Related Investment measures (TRIMS) calls for introducing national treatment of foreign investment and removal of quantities restrictions. It identifies five investment measures which are inconsistent with the General Agreement on Trade and Tariff (GATT) on according national treatment and on general elimination of quantitative restrictions. These are measure which are imposed on the foreign investors the obligation to use local inputs, to produce for export as a condition to obtain imported goods as inputs, to balance foreign exchange outgo on importing inputs with foreign exchange earnings through export and not to export more than a specified proportion of the local production.

Trade-Related Investment Measures is the name of one of the four principal legal agreements of the World Trade Organization (WTO), trade treaty. TRIMs are rules that restrict preference of domestic firms and thereby enable international firms to operate more easily within foreign markets. The TRIMs Agreement prohibits certain measures that violate the national treatment and quantitative restrictions requirements of the General Agreement on Tariffs and Trade (GATT).

TRIMs may include requirements to:

I. Achieve a certain level of local content;

II. Produce locally;

III. Export a given level/percentage of goods;

IV. Balance the amount/percentage of imports with the amount/percentage of exports;

V. Transfer of technology or proprietary business information to local persons;

These requirements may be mandatory conditions for investment, or can be attached to fiscal or other incentives. The TRIMs Agreement does not cover services. All WTO member countries (offsite link) are parties to this Agreement. This Agreement went into effect on January 1, 1995. It has no expiration date.

The Agreement requires all WTO Members to notify the TRIMs that are inconsistent with the provisions of the Agreement, and to eliminate them after the expiry of the transition period provided in the Agreement. Transition periods of two years in the case of developed countries, five years in the case of developing countries and seven years in the case of LDCs.

India's Notified TRIMs

As per the provisions of Article. 5.1 of the TRIMs Agreement India had notified three trade related investment measures as inconsistent with the provisions of the Agreement:

1. Local content (mixing) requirements in the production of News Print,

2. Local content requirement in the production of Rifampicin (a medicine) and Penicillin – G, and

3. Dividend balancing requirement in the case of investment in 22 categories of consumer goods.

Such notified TRIMs were due to be eliminated by 31st December, 1999. None of these measures is in force at present. Therefore, India does not have any outstanding obligations under the TRIMs agreement as far as notified TRIMs are concerned.

Present Status

The transition period allowed to developing countries ended on 31st December, 1999. However, Art. 5.3 provides for extension of such transition periods in the case of individual members, based on specific requests. In such cases individual Members have to approach the Council for Trade in Goods with justification based on their specific trade, financial and development needs. Accordingly 9 developing countries (Malaysia, Pakistan, Philippines, Mexico, Chile, Colombia, Argentina, Romania and Thailand) have applied for extension of transition period in respect of certain TRIMs which had been notified by them. Examination of their requests is underway in the Council for Trade in Goods of WTO.

India had proposed during the Seattle Ministerial Conference that:

- Extension of transition period for developing countries should be on a multilateral basis and not on an individual basis;

- Another opportunity should be provided to developing countries to notify un-notified TRIMs and maintain them for an extended transition period;

- The Seattle Ministerial Conference was inconclusive and no decision could be taken on the proposals.

Examples of TRIMs Explicitly Prohibited by the TRIMs Agreement[47]

Local content requirement	Measures requiring the purchase or use by an enterprise of domestic products, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production. (Violation of GATT Article III:4)
Trade balancing requirements	Measures requiring that an enterprise's purchases or use of imported products be limited to an amount related to the volume or value of local products that it exports. (Violation of GATT Article III:4) Measures restricting the importation by an enterprise of products used in or related to its local production, generally or to an amount related to the volume or value of local production that it exports. (Violation of GATT Article XI:1)
Foreign exchange restrictions	Measures restricting the importation by an enterprise of products (parts and other goods) used in or related to its local Production by restricting its access to foreign exchange to an amount related to the foreign exchange inflows attributable to the enterprise. (Violation of GATT Article XI:1)
Export restrictions (Domestic sales requirements)	Measures restricting the exportation or sale for export by an enterprise of products, whether specified in terms of particular products, in terms of volume or value of products, or in terms of a proportion of volume or value of its local production. (Violation of GATT Article XI:1)

[47] https://www.jagranjosh.com/general-knowledge/trade-related-investment-measures-trims-1448706918-1

5.2.3General Agreement on Trade in Services (GATS)

Services account for a large share of production and employment in most economies. Its share of the national Gross Domestic Product (GDP) is higher in developed countries, where it averages 60 to 70 percent, while it is lower in developing and least developed countries. In India, the sector accounted for 49 percent of the GDP in 2001-02. The world trade in services amounted to US$ 1.440 trillion in 2001, of which India's share was about 1.4 percent. There are total of 12 service sectors that have been identified in GATS, out of which 155 sub sectors have been carved.

In the Doha Ministerial Conference, it had been decided that each member country must submit initial requests by June 2002 and initial offers by March 2003. This request-offer process is underway. However, most countries, including India have interpreted these deadlines as indicative only.

The main method of negotiations is the request and offer process, under which each country tables its demands from its trading partners and its offers to its trading partners sector-wise. India has submitted 'requests' to its trading partners in computer related services, architecture services, health services, audio-visual services, tourism services, maritime services and financial services. On the other hand, India has received requests from 22 countries and has to finalize its response to these requests through an "initial offer". The initial offer would point towards the direction in which a member is willing to liberalize. However, the initial offer has no legal status and can be withdrawn or amended at any time if the member feels that the trading partners' offers are not satisfactory or adequate.

It allows the member countries to indicate measures that will be kept in place for that sector, which will act as limitation to market access and national treatment, as well as the modes in which commitments are to be taken. These commitments are specified by modes of supply. The GATS sets out four modes of supplying services as under:

Mode 1: Cross Border Trade. Cross-border trade corresponds with the normal form of trade in goods and maintains a clear geographical separation between seller and buyer. In this case services flow from the territory of one member into the territory of another member crossing national frontiers. (e.g., banking or architectural services transmitted via telecommunications or mail).

Mode 2: Consumption Abroad. Consumption abroad refers to situations where a service consumer moves into another member's territory to obtain a service (e.g., consumer travelling for tourism, medical treatment, to attend educational establishment).

Mode 3: Commercial Presence. Commercial presence is the supply of a service through the commercial presence of the foreign supplier in the territory of another WTO member. In this case a service supplier of one member establishes a territorial presence in another member's territory to provide a service. (e.g. the establishment of branch offices or agencies to deliver such services as banking, legal advice or communications).

Mode 4: Presence of Natural Persons. Presence of natural persons involves the admission of foreign nationals to another country to provide services there. An Annex to the GATS makes it clear, however, that the agreement has nothing to do with individuals looking for employment in another country, or with citizenship, residence or employment requirements. The members still have a right to regulate the entry and stay of the persons concerned, for instance by requiring visas.

India has to sort out its services sector impediments before negotiating to iron out its services delivery issues under GATS. It has to make a strong case at the WTO for macro issues like a service provider visa for Indian service professionals under

GATS, withholding tax and expansion of definition of services. However, before that, there are many issues that are to be handled at the local level.

Interestingly, India is at a vantage position to gain from expanded and comprehensive sectoral definitions of services as this would lead to inclusion of many services that could be remotely delivered to the trading partners from India. Presently the Reserve Bank of India (RBI) does not allow even foreign exchange earnings to software exporters for setting up an office, subsidiary, or a joint venture abroad without three-year profitability provision.[48]

5.2.4Agreement on Agriculture

The negotiations have resulted in four main portions of the agreement; the agreement itself; the concessions and commitments members are to undertake on market access, domestic support and export subsidies; the agreement on sanitary and phytosanitary measures; and the ministerial decision concerning least-developed and net food-importing developing countries.

Overall, the results of the negotiations provide a framework for the long-term reform of agricultural trade and domestic policies over the years to come. It makes a decisive move towards the objective of increased market orientation in agricultural trade. The rules governing agricultural trade are strengthened which will lead to improved predictability and stability for importing and exporting included in the Total Aggregate Measurement of Support (Total AMS) reduction commitments.

The Total AMS covers all support provided on either a product-specific or non-product-specific basis that does not qualify for exemption and is to be reduced by 20 percent (13.3 percent for developing countries with no reduction for least-developed countries) during the implementation period.

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48 https://usiofindia.org/publication/usi-journal/world-trade-organisation-its-implications-on-indian-economy/

Members are required to reduce the value of mainly direct export subsidies to a level 36 percent below the 1986-90 base period level over the six-year implementation period, and the quantity of subsidised exports by 21 percent over the same period. In the case of developing countries, the reductions are two-thirds those of developed countries over a 10 year period (with no reductions applying to the least-developed countries) and subject to a certain conditions, there are no commitments on subsides to reduce the costs of marketing exports of agricultural products or internal transport and freight charges on export shipments.

The tariffication package also provides for the maintenance of current access opportunities and the establishment of minimum access tariff quotas (at reduced-tariff rates) where current access is less than three percent of domestic consumption. These minimum access tariff quotas are to be expanded to five percent over the implementation period.

Domestic support measures that have, at most, a minimal impact on trade ("green Box" policies) are excluded from reduction commitments. Such policies include general government services, for example in the areas of research, disease control, infrastructure and food security.[49]

[49] https://usiofindia.org/publication/usi-journal/world-trade-organisation-its-implications-on-indian-economy/

CONCLUSION&SUGGESTIONS

CONCLUSION

After the above study about the international trade GATT and WTO and their impact on the Trade mechanism it is concluded that

After the independence of our nation, we faced many problems such as wars with Pakistan and China. Indian trade was controlled by the British crown. India was under developed and still developing nation. Thus it took time to develop our nation. Being member of the GATT we could not achieve muchbenefit as our exports were too low but it benefited the developed economies to grow more because their export was high.

GATT and WTO manage the Export and Import among the member states and makes rules and regulations for the international trade. GATT was created to increase the trade so that states could recover the loss of the World War II. It was signed by 23 states initially and later 123 states signed and joined the accord. After the GATT, there were eight rounds of meeting held in which most of the rounds were held to discuss and reduce the tariff rates on the particular products.

MFN was the principal, used to reduce the trade barriers and to reduce the tariffs. And it was highly adopted by the member states. It reduced the trade barriers and increased the trade among the member states. Reducing the trade barriers increased trade in more nations and the MNCs as well as Governments received the benefits from it. It was used to provide equal treatment to the member states.

Principles of the GATT and WTO were used to make laws for the international trade to be fair, predictable, and profitable. All these principles were adopted in all the member states in their local laws. The trade was increased very high after the implications of the rules made by the ministerial conference in the WTO.

The Dispute settlement body of the WTO is very good. The councils of the states become the members of the DSB and solve the problem between the nations and the organization. By this disputes are settled shortly and trade doesn't get stopped for very long.

Main purpose of the WTO and GATT is to promote the Free trade thus they don't stop any member state to make a free trade agreement with any other state.

Developed states got more benefits than India previously but now India is also enjoying the privileges provided by the WTO.

GATT was focused for the trading of goods but WTO included all tradable items e.g. Goods, services, IPRs and handles FDI also. WTO has become bigger than the GATT and manages more things.

WTO has become most efficient international trading organization which controls upon the all Global trades.

SUGGESTIONS

After this study I found some lacks in the WTO which I would like to share and I try to find solution too for the problem.

Though WTO has done a very great work in the promotion of the free trade and reduction of the trade barriers throughout the Globe but it still lacks in somewhere in which I like suggest some things:

1. Joining WTO is a very long and time taking process which takes years that may be reduced.
2. The new entering state has to move a application to all member states and negotiate with them separately which is very long process, that should be one application to be

moved to Headquarter of the WTO and it should be distributed to all members to give their comments suggestions and objections and acceptance.

3. There should be rule of most favored nation to be applied and a general tariff to be set to all for a particular product.
4. There are committees which are inactive e.g. Working committees for competition law that should be active and work in this field as there are lot of things which cause or likely to cause hurt to healthy competition.
5. WTO should promote the competition in the member states so that every state geta equal chance of the development.
6. There should be some sanctions upon the violation of the rules made by the WTO.
7. Dumping has become a huge problem countries like china, are dumping their goods in most of the nations. There should be a measure to take actions against such things.
8. Without trade no nation can be developed thus every nation on the globe should be allowed to join the WTO subject to the condition and their wish. So that every nation get a chance of the development.
9. The under developed nations should get some extra privileges to uplift them and get them in the list of developing or developed nation.
10. The other committees of the WTO should work also and promote their things.
11. An awareness program to be started to teach people about the international trade and their pros and cons and a complete knowledge to be provided to the common people, because of this more people will be encouraged to trade globally which will increase the competition in the market and ultimate benefits will be received by the consumer.

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