

WTO AND THE DEVELOPING WORLD : EMERGING ISSUES

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Taking over the rein of world trading system by the World Trade Organisation (WTO) is a very important development in the 1990s. The WTO with its much improved institutional arrangements is better positioned than the GATT to deal with trade issues in the future. The developing countries are likely to face an array of trade issues like environment standards, labour standards, competition policies and disputes arising out of the earlier reached agreements on the floor of the WTO. And in most cases they have to be on the defensive. They are also likely to face some adverse impacts as direct consequences of the already arrived agreements. These have to be brought into the purview of the WTO for amicable redressals. The WTO on its part must be efficient, fast and fair in dealing with the future issues, particularly those that are related to the developing countries.

I. INTRODUCTION

On January 1, 1995, the international trading system entered a new phase with the coming into effect of the World Trade Organisation (WTO). Eighty one countries from all regions of the globe, representing over 90 per cent of the global trade of goods and services, became the members of the WTO on that day. Since then many more countries and territories have joined the organisation. The WTO comes as a replacement and upgradation of the General Agreement of Tariffs and Trade (GATT) which was created in 1947, and it was the 8th Round, popularly known as the Uruguay Round (UR), of GATT negotiations that finally paved the way for the WTO.

The creation of WTO as a permanent international institution in the global inter-governmental economic system tempts

many to draw it at par with the Bretton Woods institutions, viz., the IMF and the World Bank. Though this parallelism is yet to be justified; the significance of the emergence of WTO cannot be minimised in any way. It encompasses all the activities of its predecessor, the GATT, and a lot more of a mandatory nature. Moreover, the WTO establishes a legal framework that ties together the various legal pacts negotiated under the GATT auspices and it is responsible to providing a forum for all future negotiations to resolve nitty-gritty of the evolving world trade pattern.

The Final Act of the UR that transforms the GATT into the WTO is not a thought-off-end of the Round when it began at Punta del Este, Uruguay in September 1988. In the beginning of the UR; the developing countries were hesitant participants, but after-

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wards they joined the Round's negotiations with a sense of impending uncertainty. The culmination of the talks and the creation of the WTO and its coming into force will have important implications for the multilateral trading system in general, and the developing countries in particular.

The WTO, empowered with its own legal entity in the Dispute Settlement Body (DSB) and improved surveillance capacity in the Trade Policy Review Mechanism (TPRM), could prove to be a bane or boon to the developing countries on different issues at different points of time. The institutionalisation of "one country, one vote" in the WTO preamble is no doubt a major victory for the weaker countries, but the suggestion in the Final Act for cooperation and coordination between the WTO, the World Bank and the IMF on trade, financial and monetary policies could prove to be an ominous signal to the developing countries as a whole. Because, these three institutions together will wield enormous power that could be used by all countries to achieve their socio-economic goals and make them active participants in the fast emerging process of globalisation.

Thus, the aftermaths of the Uruguay Round as well as the future issues that come under the purview of WTO negotiations have to be handled carefully by the developing countries as they have now become equal partners. The issues that are likely to dominate the future agenda of WTO are trade in services, trade and environment, competition policy, labour and social standards and, so on; and on each of these issues the developing countries could find themselves on the defensive. The possibilities that they would face more balance of payments problems due to escalation of food prices and other adjustmental costs, more non-tariff barriers

(NTBs) under the pretext of safeguard measures, more antidumping and countervailing threats are real as a result of the Uruguay Round. These issues also have to be addressed and resolved to their satisfaction under the WTO aegis.

A number of studies and a large volume of literature devoted to analyse the implications of the UR or its components for the developing countries are available for the critics purview (see Ocampo, 1992; GATT, 1993; Hoekman, 1993; Reichman 1993; Bhagwati, 1994; Agosin et al., 1995; Rodrik, 1995; Weston, 1995). Numerous quantitative evaluations of the Round's market access provisions have also been undertaken (see GATT, 1994a; Goldin et al., 1993; OECD 1993; Nguyen et al., 1993; Perroni, 1994). But our area of interest and evaluation is a bit futuristic as we would concentrate on the issues which are likely to come up in the future course of WTO's working vis-a-vis the developing countries, position and defense to handle such issues.

This paper is organised as follows: Section II gives a viewpoint about the countries which could be considered as developing. Section III briefly highlights the agreements reached on different issues in the UR. The issues of main thrust of this paper are dealt with in Section IV where we have incorporated new issues which are likely to be taken up as trade-linked issues by the WTO as well as the issues expected to arise as direct consequences of the UR that adversely affect the developing countries. The WTO has already completed a year of its working. A brief assessment has been offered about the performance of WTO as an international platform to deal with trade, issues and a few concluding remarks are made in the last section of this paper.

II. THE DEVELOPING COUNTRIES: THE FUNCTIONAL FRAMEWORK

The conceptual framework of developing countries used in this paper is the same as formally covered by the WTO's constitutional structure. Different international institutions have their own ways and parameters to identify the category under which a country does fall. The World Bank (1994) has classified countries under "Low Income Countries" (42), "Lower and Upper Middle Class Economies" (67), "High Income Economies" (23). Another 16 countries remained unclassified. The UNDP (1995) listed 129 countries as "developing countries" in its profile of human development of 173 countries. The IMF in the Direction of Trade Statistics provides all trade data under the headings of "Industrialised Countries" (21) and "Developing Countries".

The United Nations identified 47 countries as the least developed countries (LDCs). They have a population of over 478 million with an average annual per capita income of \$ 228 in 1992. Further, there are 20 low income countries with a total population of 2,748 million (including China and India) and an average annual per capita income of \$ 395 (Weston, 1995, p. 63).

None of the above identifications or classifications appropriately suit our purpose. For example, the income-wise classification of the World Bank has a large group of countries under the "Upper-Middle Income" level which includes countries such as Singapore, South Korea, Greece, and Portugal which clearly do not qualify to be referred as the developing countries. Again, the UNDP classification of "Industrial Countries" and "Developing Countries" has the same problem of intrusion of countries in the wrong place.

Most of the "economies in transition" may have high human development index (HDI) ranking, but their nascent democracy, public dissatisfaction over the painful transforming process of the economies, and growing wealth distribution inequalities put them far behind many developing countries of Southeast Asia in several ways and so they may also lag behind in sorting out most of the issues which the developing countries are likely to face in the new world trade scenario, the WTO being the "horsehouse" of the changes. The United Nations identification of "least developed" and "low income countries" has the same deficiency of insufficiency in incorporating a large number of countries which could be included in the list of developing countries.

In this paper, though for simplicity and functionality, we have quoted data and information provided by different publications of the UN, IMF, UNCTAD, and GATT on the basis of their own classifications, it is proposed to consider the whole of Latin America (33 countries including Mexico), Africa (53 countries including South Africa), transitional economies of European and Central Asia and all over Asian countries (except Japan, South Korea, Taiwan, Hong Kong, Singapore and oil-export-dependent economies of Saudi Arabia, Oman, United Arab Emirates) as the developing countries. Our consideration is guided by the following factors: (a) Most of these countries national savings are insufficient to meet the domestic investment requirements needed for economic development, technological updating and competitiveness so that they will have to depend on outside capital and investment for their infrastructural, industrial and technological development in the foreseeable future; (b) Most of the countries are food-deficient and depend on food imports. This also creates

extra burden on their precarious free foreign exchange resources; (c) Most of them have abundant manpower but their service sector is unorganised and underdeveloped. Labour issues like harmonisation of labour standards, human rights position, child labour, movement of "natural persons", etc., are related to them more, and they will be the focal point in any future controversy; and (d) In their stride towards economic betterment, they may have to depend more on the natural and environmental resources. This will add extra pressure on the already fragile environment as a whole. Trade and environment are going to be linked in a more vigorous manner in the future trade negotiations relating to just and equitable international economic, business and financial order.

It will be imprudent to assert that every future issue will touch each of these developing countries. But the overall assessment is that most of them might have to be on the defensive, as they had been during the UR, with the trade issues of future. Moreover, a special feature of the UR was that the developing countries negotiated much more individually and less as a group than in other fora, like UNCTAD (Weston, 1995, p. 64). They cannot afford to do so in the future WTO negotiations. "One country, one vote" policy has definitely provided them an opportunity to work together equally and achieve more equitable sharing.

III. GATT'S URUGUAY ROUND (1986-93): AN OVERVIEW

To some extent future lies in the present and/or past. This holds good in the case of the future issues of WTO. To be more precise, the UR of GATT negotiations and the Final Act that led to the creation of WTO have already sowed the seeds and set into motion the future agenda that the develop-

ing countries have to face on the negotiating table of the WTO. So keeping track of the UR is a necessary part of identifying the issues of the future negotiations and socio-economic endeavour.

The Uruguay Round of GATT multilateral trade negotiations was launched in 1986 at Punta del Este, Uruguay with an agenda of 14 items and time allocated was a period of four years to complete the Round. But differences cropped up at the very beginning of the Round and it took nearly eight years of vigorous negotiations to complete the Round with unanimous agreements. The Final Act that concluded the Round was signed by 122 countries at Marrakesh in April, 1994. This Act embodies a set of 28 Agreements which spell out the legal texts and results of negotiations of the UR. The "market-access-negotiations" and the "initial commitments" on the liberalisation of trade and services that are to be recorded in the national schedules would also form an integral part of the Final Act. In what follows, we present an overview of the UR in the milieu.

As we are dealing here with the issues that will affect the future foreign trade structure of the developing countries, the focus of this paper would be concentrated more on their needs and concerns.

The UR and The Market Access

The spectres of market access are spread in the agreements on tariff reduction, tariffication and access opportunities of industrial, agricultural, textile and clothing products. The UR has achieved a major success in reducing tariffs on most of these products and is, thus, likely to give impetus to the trading activities of the developing countries in these products. Tariffs on industrial products will be reduced significantly in a global way, though goods of particular export interest to the developing

countries will enjoy considerably lower reduction. Tropical agricultural products will receive higher tariff reductions than that of non-tropical products where the developed countries still have an edge in export. As regards textiles and clothing, the enormous backloading of the benefits of the opening up of the Multi-Fibre Agreement (MFA) markets reduces their value. Moreover, the safeguard provisions of the agreement can remain irritants to the exporting countries because of their exploitation for protective purposes. Table 1 gives us a picture of the UR's agreed level of tariff reductions on industrial, agricultural and textile and clothing products.

Industrial Products

The tariff reductions for industrial products excluding petroleum in the developed countries will average 40 per cent and will reduce the pre-UR average tariff from 6.3 per cent to 3.8 per cent (Table 1). In terms of exports of industrial products from the developing countries and LDCs to the developed countries, tariff cut will average 37 per cent and 25 per cent respectively. Out of the 11 different product groups, above average tariff cuts will be made in 7 groups while 4 product groups, viz., textiles and clothing, leather, rubber, footwear and travel goods, fish and fish products which are of export interest to the developing countries, will get below average tariff cuts. A process called 'zero for zero' has been introduced where the developed countries agreed to eliminate tariffs on construction materials, pharmaceuticals, paper, toys and furniture.

Within 2000 A.D., the developed countries will implement the tariff offers in five annual reductions, all of which are to be of equal magnitude, unless a different procedure is specified in an individual country offer. The developing countries and LDCs have to

implement the offers within 10 years and they, particularly the LDCs, will not always be pressed for zero-for zero parity in the above mentioned industrial products.

Agriculture

Agriculture was put on the agenda of the UR largely by the pressure and persistence of the 14-member Cairns Group led by Australia and New Zealand. Removal of the restrictions and distortions in the world agricultural markets was their foremost objective at the Round, though the European Union (EU) and the net food importing countries objected to the move till the very end and brought in all sorts of arguments of self-centred and narrow socio-economic nature.

The agreement on agriculture covers three major areas- market access, domestic support and export subsidies. Tariffication of the non tariff barriers (NTBs) which are generally oriented to provide substantial level of protection, is a core area with regard to market access in the agreement. The domestic assistance measures that have minimal impact on trade (the so-called green box measures) would be excluded from the reduction commitment. These measures include government assistance for research and development, disease control, infrastructure and food security. Other permitted measures include direct payment to producers, structural adjustment assistance, and direct payments under environmental and regional assistance programmes.

The agricultural export subsidies will be reduced gradually by both the developed and developing countries, expecting certain conditions when the developing countries will be exempted from commitments to reduce subsidies related to domestic transport costs. Table 2 presents a view of the agreement on agriculture at a glance.

Table 1 : UR's Market Accessibility Inducements by Tariff Reduction

Import From	Import Value (\$ billion)	Tariff Average		(%) Reduction
		Pre-UR	Post-UR	
All Industrial Products				
Developed Countries	736.9	6.3	3.8	40
Developing Countries (Other than LDCs)	165.8	6.8	4.3	37
LDCs	8.9	6.8	5.1	25
Product Groups (Tariff Reduction of the Developed Countries)				
1. <i>Industrial Products :</i>				
Metals		3.7	1.4	62
Mineral Products, Precious Stones and Metals		2.3	1.1	52
Electric Machinery		6.6	3.5	47
Leather, Rubber, Footwear and Travel Goods		8.9	7.3	18
Woods, Pulp, Paper, Furniture		3.5	1.1	69
Fish and Fish Products		6.1	4.5	26
Non Electric Machinery		4.8	1.9	60
Chemicals, and Photographic Supplies		6.7	3.7	45
Transport Equipment		7.5	5.8	23
Manufactured Articles w.e.r.		5.5	2.4	56
2. <i>Textiles and Clothings</i>		15.5	12.1	22
3. <i>All Agriculture Products</i>				
		Value of Import (\$ bn)		(%) Reduction
All Products		84.2		37
Coffee, Tea, Cocoa, Sugar, Eat		9.1		35
Sugar		1.7		30
Spices and Cereal Preparatiois		2.8		35
Fruits and Vegetables		14.6		36
Oilseeds, Fats and Oil		12.6		40
Animal Products		9.6		32
Beverage and Spirit		6.6		38
Dairy Product		1.3		26
Flowers, Plants and Vegetable Materials		1.9		48
Tobacco		3.1		36
Grains		5.3		39
Other Agriculture Products		15.6		48
<i>Tropical Products</i>		24.0		43
Tropical Beverages		8.7		46
Tropical Nuts and Fruits		4.3		37
Certain Oil seeds, Oil		3.4		41
Roots, Ride and Tobacco		4.6		40
Spices, Flowers and Plants		3.0		52

Note : Industrial Products do not include petroleum products.

Source : GATT (1994-96).

Textiles and Clothing

The current \$ 240 billion market's operation of textiles and clothing industry will undergo significant changes over the year as a result of the agreement on textiles and clothing in the UR. The phasing out of the highly discriminatory MFA and the integration of textiles and clothing sector into the normal GATT rules and disciplines are also regarded as major gains for the developing countries as exporters. For over 40 years, the MFA governed the system of imports of textiles and clothing by the developed countries through increasingly stringent

quantitative restrictions (QRs) embodied in it. The principal mechanism for winding down the MFA will be the gradual dismantling of QRs and the application of all GATT disciplines to this sector.

As per the agreement, each member is committed to integrate into GATT imports representing not less than 16 per cent of the 1990 import of textiles and clothing. The products initially not integrated into the GATT will be integrated in a period of 10 years, in three stages-during the period of first three years, products representing imports of not less than 17 per cent of the

Table 2 : Commitments in UR Agreement on Agriculture at a Glance

	Market Access		Domestic	Export Subsidies	
	Price	Quantities	Subsidies	Outlays	Quantities
Developed Countries	Tariffication and tariff reduction of 36%, over six years, minimum reduction of 15% for each product category	Tariff Quotas for 3% of domestic consumption, raising to 8% after 5 years	28% reduction in aggregate in six yrs.	34% reduction in six yrs.	21% reduction in six yrs.
Developing Countries	Tariffication and tariff reduction of 24%, over ten years, minimum reduction of 10% for each product category	None	13.3% reduction in aggregate in ten yrs.	24% reduction in ten yrs.	14% reduction in ten yrs.
LDCs	None	None	None	None	None

Source : As for Table 1.

1990. imports; in seven years, products representing an additional 18 per cent of the 1990 imports; and at the end of the ten-year transition period, all the remaining products.

Opinions on the benefits accruing from the phasing out of the MFA differ. According to GATT estimates, the resulting global export growth will be larger for clothing (60 per cent) and textiles (34 per cent) than for any other product category. Others have calculated that trade in textiles and clothing may double or even treble if tariffs as well as quotas are removed (Weston, 1995 p. 68). In another estimate of the GATT, the value of exports of the currently constrained suppliers of textiles and apparel to the US market is expected to rise by 20.5 per cent for textiles and 36.5 per cent for clothing as a result of eliminating the MFA (Rahman, 1995, p. 120).

But two factors that have been raised about the actual benefits of the phasing out the MFA need to be assessed carefully. Scepticism has been voiced that the backloading of the liberalisation commitments could lead to backsliding. In effect, the special safeguards incorporated into the agreement make this result likely. Moreover, a simple calculation of the agreement's present value at a discount rate of 10 per cent equals to about 57 per cent of the value of a full and immediate dismantling of the MFA (Agosin et. al., 1996, p. 9).

Trade Policies, Disciplinary and Safeguard Measures

The Final Act has embodied a votary of agreements that can be used for cross purposes. These agreements are focused to shape different trade policies and to take necessary disciplinary and safeguard initiatives when they are deemed to be fairly necessary. But these very agreements on trade policies have the potential to restrict

or curtail trading activities of the developing countries in some way or the other. In the past, the increasingly innovative use of non-tariff protectionist measures by the developed countries did not bode well to the Third World countries.

The following agreements incorporated in the Final Act are expected to have wide-ranging implications for future trade: Agreement on Sanitary and Phytosanitary Measures; Agreement on Technical Barriers to Trade; Agreement on Implementation of Article VI (Anti-Dumping); Agreement on Subsidies and Countervailing Measures; and Agreement on Safeguards.

The Agreement on Sanitary and Phytosanitary Measures recognises that governments have the right to take sanitary and phytosanitary measures but that they should be applied only to the extent necessary to protect human, animal or plant life or health. These measures are to be based on international standards, recommendations, and guidelines. Members may, however, maintain or introduce higher standards if there is scientific justification or an acknowledged risk. The agreement sets control, inspection and approval procedure of the measures.

The Agreement on Technical Barriers to Trade has been envisaged to extend and clarify the agreement reached in the Tokyo Round in 1979. It recognises that countries have the right to establish protection, at a level they consider appropriate for human, animal or plant life or health, or environment, and should not be prevented from taking measures necessary to ensure that the levels of protection are met.

Article VI of the GATT provides for the right of the contracting parties to apply anti-dumping measures, i.e. measures against import of a product at an export price below its "normal value" (usually the price of the

product in the domestic market of the exporting country), if such dumped imports cause injury to a domestic industry of the importing country. The Agreement on Implementation of Article VI provides more detailed rules and methodology for determining whether a product is dumped, procedure for initiating and conducting investigations and the implementations — *de minimis* and *sun-set clause* have been added to the agreement. While *de minimis* provision calls for immediate termination of an anti-dumping investigation in cases where the margin of dumping is less than 2 per cent of the export price of the product, the sun-set clause provides that any anti-dumping duty shall be terminated on a date not later than five years from its imposition, unless otherwise the continuance is duly justified again.

The Agreement on Subsidies and Countervailing Measures has been developed on the Agreement on Interpretation and Application of Articles VI, XVI and XXIII which were originally negotiated at the Tokyo Round, and has the largest single text of the Final Act. Signifying the importance attached to it, the agreement categorises subsidies into three groups-prohibited, actionable and non-actionable. Subsidies which explicitly depend on exports or on the use of domestic inputs are prohibited. Actionable subsidies are all "specific" non-trade subsidies (i.e. those which are available only to certain industries and enterprises) which have an effect on the export process. Actionable subsidies are subjected to countervailing duties (CVD) when they cause or threaten to cause serious prejudice to another signatory's national production, a situation arising due to a total and ad-valorem subsidy applied to a product being higher than 5 per cent of the value of the production. Non-actionable subsidies could be specific or non-specific; subsidies involving assist-

ance to industrial R&D, precompetitive development assistance to disadvantaged regions and assistance to comply with new environmental regulations or norms. The Agreement ensures that all subsidy cases are to be addressed through the WTO rules and thereby diminishes the scope for unilateral interpretation for action.

Some reason behind the growth of "grey area measures" like voluntary export restraints (VERs) and orderly marketing arrangements (OMAs) instead of the use of GATT Article XIX, concern their selectivity and compensatory obligations. Both these elements are now incorporated in the new WTO rules for safeguards. Selective safeguards may be used against suppliers whose exports to a market have grown disproportionately compared to total imports in the previous three "representative" years (Article 9b). They could be used only for four years in case of actual injury. General safeguards, on the other hand, may be applied where the injury is threatened, and can be extended beyond four years to a maximum of eight years, provided minimum access is permitted. In neither case retaliation is allowed in the first three years if imports have increased in absolute terms. The agreement sets a "sunset clause" on all safeguard actions. Finally, the frequency of safeguard action on any product is inversely related to the length of previous action (Article 14) e.g. an importing country must wait for two years before taking a second two-year action.

There are also special provisions for the developing countries, but not for the LDCs. Developing countries will be exempted from being sideswiped or even the direct target of safeguard action if they individually account for less than 3

per cent of import, but collectively these minor suppliers must account for less than 9 per cent of imports (Article 19). On the other hand, the developing countries will be able to apply safeguards for longer period upto 10 years and roughly twice as frequently against their own imports (Article 20).

The Final Act also embodies agreements on market access (of non-agricultural products), rules of origin, pre-shipment inspection, import licensing, customs valuation, and government procurement. These agreements are mostly disciplinary and policy-oriented in nature in the directed areas. They are likely to be implemented more and more effectively in the coming years as the WTO takes control of the world trade affairs.

New Issues

The UR made vital inroads into some areas which earlier did not feature in the GATT negotiations. This is an important development, because during the whole negotiation process, since these issues came up, differences between the developed and developing countries widened and the entire process was nearly bogged down. It was, however, at the last moment that agreements were reached on the issues like trade related investment measures (TRIMs), trade in services and trade related aspects of intellectual property rights (TRIPs). The importance being attached to these issues before and after the agreement arrived is because of the fact that they have the potential to severely affect the world trade in the future.

Agreement on Trade Related Aspects of Investment Measures

The Agreement on Trade Related Investment Measures (TRIMs) requires contracting members not to apply any TRIM

inconsistent with Articles III (national treatment) and XI (prohibition of QRs), and can affect the trading rights of other countries. The agreement is appended with an illustrative list that contains TRIMs agreed to be inconsistent with these Articles and measures for trade balancing and local content requirements.

All countries have 90 days from the entry into force of the WTO to present a list of any exceptions to these rules which they wish to maintain. But all non-confirming TRIMs have to be eliminated within two years by the developed countries, while the developing countries get five years and LDCs seven years for their phase-out. Extensions are possible in both cases though, for monitoring the implementation of these commitments, the agreement establishes a Committee on TRIMs. Any disagreement arising in the process would be handled under the new WTO dispute settlement mechanism.

The text of the agreement provides for fairly weak restrictions, and many developing countries have already complied with the provisions by liberalising their foreign direct investment (FDI) and trade policies over the past few years. According to the latest count, such countries which have started a vigorous process of opening up and liberalisation, number more than 77.

General Agreement on Trade in Services

The General Agreement on Trade in Services (GATS) has been erected on three pillars. The first is a framework agreement containing basic obligations which apply to all member countries. The second one is concerned with national schedules of commitments containing specific further national commitments which will be subject to a continuing process of liberalisation. The third is a number of annexes addressing

the special situations of individual service sectors.

The general obligations apply to all areas of services notably tourism, banking, construction projects, and consultancy and they require, most significantly, most favoured nation (MFN) treatment. There are general principles, similar to parts of the GATT, relating to transparency, domestic regulation, recognition of licenses, economic integration and dispute settlement mechanism. While unconditional MFN treatment is a general obligation, it is qualified by an annex allowing for exemptions if one country considers another's offer to be inadequate.

National treatment and market provisions will be applied only to sectors and modes of supply listed in each country's schedule. Reservations may be entered allowing for the denial of certain types of national treatment or market access.

The GATS is a significant step towards subjecting international trade in the services to multilateral rules. On the whole, the GATS does not impose a tremendous amount of obligation on the developing countries (Rodrik, 1995, p. 44).

Agreement on Trade Related Aspects of Intellectual Property Rights

The Agreement on Trade Related Intellectual Property Rights (TRIPs) recognises as universally valid what is prescribed in international conventions (Berne, Paris, and Rome) administered under the auspices of the World Intellectual Property Organisation (WIPO) and in some instances goes well beyond their provisions. The TRIPs agreement mandates the extension of patentability to virtually all fields of technology and establishes minimum standards of protection in seven areas: patents, copyright and related rights, trade-

marks, geographical indicators, industrial designs, layout designs of integrated circuits and undisclosed information.

In patents, members are required to provide protection for a minimum of 20 years in all areas of technology, pharmaceuticals included. The developing countries are given five years, and LDCs eleven years, to bring their practices into conformity with the TRIPs Agreement (compared to one year for the developed countries). The developing countries can have an additional five years for patents of specific products remaining domestically unprotected by patents at the end of the first five year period. However, in the case of pharmaceuticals and agricultural chemical products, the arrangements are quite strict where patent protection for such items is lacking.

The important feature of this Agreement is that disputes in the area of intellectual property can be brought to the WTO and be resolved under the WTO's unified dispute settlement mechanism.

For the developing countries, the TRIPs Agreement carries an ominous signal. Under the guise of protecting the property rights of inventors and innovators, TRIPs might pave way for transfer of billions of dollars worth of monopoly profits from the poor countries to the rich countries (Rodrik, 1995, p. 44). TRIPs might usher in a new era of techno-imperialism.

Institutional Changes and Dispute Settlement Mechanism

The most important achievements of the UR are transforming the GATT into a permanent international institution, the World Trade Organisation (WTO) and the setting up under the aegis of the WTO of an integrated and strengthened dispute settle-

ment mechanism - the Dispute Settlement Body (DSB).

The WTO is now a single undertaking and will be responsible for the orderly management of trade relations through the next century. The WTO establishes a legal framework that ties together various trade pacts that have been negotiated under the GATT auspices. It has been designed to oversee the new trade rules and manage their evolution through ongoing negotiations and more regular meetings of trade ministers. The WTO will hold a ministerial conference at least once in every two years. In the interim, a General Council will oversee the general business of the WTO as well as dispute settlement and review of members' trade policies. The rest of the structure of the WTO rests on three different councils and three committees (see Annex A1).

Decision making by consensus would be practised in the WTO compound, but disagreement on or objection to any rules by members will be resolved by votes where each member has one vote. In a related development, the WTO has been changed into a single undertaking whereby all members have to accept all parts of the Final Act, i.e. all the new rules.

Reviewing the trade policies of the member countries is an extra responsibility that has been vested upon the WTO. It is primarily an exercise in stock-taking - describing member countries' trade policies and institutions, with limited evaluation of their impact either domestically or on trade partners.

The DSB will deal with all disputes arising from the agreement contained in the Final Act and with considerably expanded powers. The DSB will function with downward organs that will be established when trade disputes are brought to its notice (see

Annex A2). The responsibility of the DSB includes setting up panels, adopting reports, supervising the implementation of rulings and recommendations and authorising retaliation. Though the effectiveness and impartiality of this institution is yet to be tested, the creation of DSB is an important contribution of the UR in terms of providing security and predictability to the multilateral trading system.

IV. THE EMERGING ISSUES

The UR is, no doubt, the biggest trade liberalisation package multilaterally created so far. It has the promise to create a sort of dynamism in the international trade and, hence, more vibrancy in the international economy. The UR also represents a multilateral deal that recognises the ceaseless changes that are taking place in the international economy, and initiates steps to incorporate them.

But how the developing countries fared in the UR is a question of debate and discussion. In the Round they had gone for a drastic tariffs reduction in the hope of trading it off with the gains of market access opportunities offered by the developed countries. In that process, they had to forego most of the special and differential treatments (SDTs) which were offered in the form of various Generalised System of Preferences (GSP), exemptions of QRs, consideration of BOP problems and so on by the developed countries. On the other hand, market access opportunities due to the MFA had been awfully backloaded and the real benefits arising from the agreement need a careful scrutiny. The most bothering part of the agreement for the developing countries is the issue of TRIPs. Under the guise of TRIPs, an effort has been made by the technologically advanced countries to perpetuate their dominance in most of the production methods

of manufacturing and service sectors and it is also seen as an endeavour by the developed countries to extract extra-territorial benefits even from those sectors where they have already lost or are in the process of fast losing their competitive edges.

Two categories of "new" issues, which are going to get prominence in the coming period, need to be explored. The first category covers those issues which were not explicitly addressed by the UR but appear to be taking a concrete shape in the post-UR Agenda. Interestingly, these issues, viz., trade and environment, trade and labour standards, and trade and competition policy are mostly related to the developing countries and these are the areas where they have to be on the defensive when they come up for WTO discussion. The second category includes those issues which are expected to arise as direct consequence due to the implementation of the UR agreements by the developing countries and which they should bring to the floor of the WTO for amicable redressal.

Trade and Environment

The debate on trade and environment got prominence in the ambit of GATT since the publication of a report on "Trade and Environment" in February, 1992. The developed countries are increasingly becoming impatient to make a linkage between the functioning of the multilateral trading system and better environmental protection. And taking the cue, the Marrakesh Ministerial Decision on "Trade and Environment" ensures that the linkage between trade policies, environmental policies and sustainable development would be taken up as a priority in the WTO. And since then the pressure for an upward harmonisation in environmental standards and trade conflicts with environmental bias have been growing.

The developed countries are pressing forward two arguments for the upward harmonisation of environmental standards. First, most of the developing countries have very loosely defined environmental rules or no environmental standards at all. Their environmental resources are inappropriately priced and lowly protected. In this context, liberalisation of trade in those countries will lead to an environmental degradation due to unrestricted extraction and increasing use of the resources. This will have a spill-over effect on the environment of other countries. Secondly, the low environmental standards in the developing countries confer an "unfair" advantage in international trade and investment ("eco-dumping"). The competitive advantage conferred by lower standards abroad put pressure on all countries to lower their standards.

The developed countries, therefore, argue that either the standards should be harmonised upward or trade restrictions should be allowed against countries with lower standards (Kirmani, 1994, p.17-18).

Although there is no gainsaying the need for and the desirability of improving environmental standards, yet taking trade measures on the pretext of environmental standards can only send ominous signals to the developing countries. Because, both arguments of the developed countries have their own fallacies.

First of all, the developed countries which are now preaching environmentally correct path to the developing countries are themselves to be blamed most for the destruction of "global commons". They, not the poor, are responsible for the bulk of world's pollution, especially for those problems — global warming and damage to ozone layer — with worldwide effect (*The Financial Times*, 1992a). Moreover, the MNCs of

developed country origin are involved in the extraction of mineral and other natural resources in the Third World countries, and they are directly related to the cause of environmental degradation.

Secondly, argument of comparative cost advantage is based on simplistic price difference tag in the market places. What the manufacturers of the developed countries fail to see is that the price of a product is not determined by the cost of the manufacturing method only, but also by labour wage, land costs, management cost, tax rates, etc. which are invariably lower in the developing countries.

So, resorting to any restrictive trade measures against the developing countries on the basis of environmental standards should not happen under the aegis of the WTO. Because, that will not only be an unjustifiable intrusion into the rights of countries to set their own priorities, but will also deprive them of the benefits of free trade, create the risk of protectionist abuse, and prevent the search for more appropriate solutions.

Thirdly, the cost of upgradation of environmental standards is enormous. The developing countries will need as much as US \$ 125 billion a year to introduce the measures approved at the United Nations Earth Summit at Rio de Janeiro in 1992 (*The Financial Times*, 1992b). This is a huge amount, and the developing countries on their own would not be able to afford that. It is now accepted that there is a positive relationship between wealth and improved environmental protection. Thus, the concerns to raise environmental standards in the developing countries could be achieved through raising incomes, and by providing financial and technical assistance.

Any future arrangement of the environmental standards problems under the ambience

of WTO must address the concerns of the developing countries. Incorporation of any punitive trade measure will only embolden the hands of the protectionist forces who will often try to take refuge in these measures on different pretexts.

Trade and Labour Standards

Another controversial issue that the developed countries are adamant to bring as a trade agenda under the WTO is the labour standards of the developing countries. Actually, a whole set of labour related issues such as lower wages, child labour, working conditions, human rights position, social welfare measures and so on prevailing in the developing countries have been brought into question. Argument for upward harmonization in these areas has been advocated by the developed countries on the grounds that low labour standards enable these countries to keep labour costs low, thereby conferring "unfair" competitive advantages on them in trade and in attracting investment ("social dumping"). Their argument goes up to the extent that this is also affecting the wage rate downward and unemployment upward in the developed countries.

The fact is that in recent years many developing countries have achieved competitive edge in a wide range of products from consumer electronics, pharmaceuticals, textile and clothings, leather, footwear to computer engineering. These very products have carved out a niche in the markets of the developed world. The developed countries are not willing to accept this fact and they are simply trying to blunt the competitive edge of the developing countries on different issues. Moreover, the concerns of labour standards are also rooted in the labour-market difficulties experienced in the developed countries. The European Union has a severe unemployment problem with an average rate of 11 per cent. In

the US, unemployment is less of a problem, but there has been a marked deterioration in the relative earnings of unskilled labour (Rodrik, 1995, p. 52).

The developing countries have to resist these pressures as attempts to offset standard differences through trade measures will aid reducing their trade share and social welfare by worsening labour conditions. Low labour standards per se need not confer comparative advantage, especially if they reflect low productivity. And wages and labour standards tend to rise over a time with the rise of labour productivity. Transition experiences of different East Asian countries have amply proved this. Empirical works done in the OECD show that while unrestricted trade with developing countries that have low wages and labour standard can have sectoral effect, there is no firm evidence that these factors result in higher aggregate unemployment (Oliveria Martins, 1993).

Long term trends in the developed countries are related to deep-seated structural rigidities, particularly labour market inflexibility and the extent to which skills required in a declining industry can be adapted to the needs of expanding industries. As regards the decline of relative wages of unskilled workers in the United States, professional economists attribute it to skill-biased technological change, rather than to imports from the developing countries (Bhagwati 1994; Krugman and Lawrence, 1993). Bhagwati, (1994) has made a long list of issues-e.g. worker participation in decision making, rights of migrant labour, right to organise trade unions, child labour where the US lags extremely behind. He observes thus: "Less than 20 per cent of the United States work force is unionized... Even the developing country phenomena such as the use of child labour raise complex questions... Few children grow up

in the United States without working as baby sitters or delivering news-papers: many are even paid by the parents for housework in the home" (Bhagwati, *ibid*).

The developing countries have to improve the standards but the effect of the developed countries to connect them with trade sanctions merit little justification and should be termed as discriminatory and protectionist.

Trade and Competition Policy

The debate on trade and competition policy is still less mature, but economic events continually remind us that anti-competitive practices loom large as trade distortions and other more traditional barriers fall. Issues of particular interest to the developing countries in this area are related to investment measures, intellectual property and anti-dumping policies that are being tried to be incorporated along with environment and labour standards with competition policy.

It may be emphasised here that domestic policy instruments (subsidies, regulations on FDI, patent, copy right, labour laws, etc) are likely to be targeted in competition policy harmonisation process. Again, the developing countries have to bear the maximum brunt of these policies as they will have to pass through the transition and adjust themselves with the new environment.

Footing Food Bills and BOP Problems

The net food importing countries, most of which are the LDGs and developing countries, might have difficult time ahead with the growing import requirements and additional bills they will have to pay for the rise in food prices in the international market. Alarm bells have been sounded all around the world due to the steady depletion of the

carry over stock of food grains for the last few years. At the end of 1995, food security indicator touched the level of 231 million tons which amounts to 48 days worth of grain on reserve for the world. This depletion of stock has led to the increase of grain prices everywhere by 50 per cent and in some extreme cases, they have doubled since 1994 (World Watch Institute, 1996).

Two issues need to be addressed here (i) whether the trend of rise in food prices is a short term phenomenon or a long term one; and (ii) how far the Agreement on Agriculture in the UR has affected the food prices. The World Watch Report of the WWI has blamed the present depletion of food stock on harvest reducing heat waves in many industrialised countries. But the inside story could be different, as speculation and a concerted effort to raise the food prices taking the advantage of the UR Agreement on Agriculture cannot be ruled out. So, the present rise could be the prelude to a permanent rise in the world food prices (especially of wheat, rice and corn).

Actually, the present rise also comes as a support to most of the studies done on the effect of UR on world's agricultural products. Out of five studies (presented in Table 3), only one by Goldin et al. (1993) predicted that liberalisation due to the UR will cause decline in the prices of rice, coffee and cocoa. But all other studies have predicted modest to steep rise in the temperate zone products, while products of tropical origin or poormen's products (i.e. the developing country products) will see a minor increase in prices. In other words, the benefit of price rise of agricultural products will be enjoyed more by the developed countries than their developing partners. It, however, needs to be kept in mind that any long term forecast could be

proved otherwise by the (unknown) developments in four areas - production levels in the Eastern Europe and former Soviet Union, China's potential and position in trade, the actual extent of trade liberalisation by the developing countries and "black box" role of the future gains from technologies (Valdes and Zietz, 1995, p. 914).

The rise of prices of temperate zone products will create additional BOP pressure on the developing countries. This fear arises from the fact that virtually all the LDCs are found deficit countries while a majority of low-income countries are recipients of food aid, and food imports account for more than 15 per cent of the import bill for more than two-thirds of the least developed countries and nearly half of the low-income countries (Weston, 1995, p.71. Also see Annex A3). At the end of 1992, the developing countries' agricultural external debt stood at \$ 1,662 billion (FAO, 1994, p.33). So, the situation can worsen further in the wake of price rise in the international food market.

Scarcity of food as well as rise in prices will have a deep social implication too. So, the food deficient and food importing developing countries must take up the issue to the floor of the WTO. Suggestions of a better coordination between the WTO, the IMF and the World Bank with trade and financial issues can simply open a Pandora box and the developing countries are bound to come under additional pressures from all the quarters. A WTO led international effort to help the developing countries with advance technology and easier finance to assist green revolution in the food deficient countries is strongly recommended.

Trade in Services and The Movement of "Natural Persons"

The signing of the Final Document at Marrakesh and the subsequent negotiations

Table 3 : Simulated Effects of UR Trade Liberalization on World Prices

Commodity	Sources				
	UNCTAD/ WINDER (1990)	Page Devenport & Hewit (1991)	FAPRI (1993)	Brandao & Martin (1993)	Goldin, et. al. (1993)
Temperate Zone Products					
Wheat	7.5	5.0	6.3	6.3	5.9
Coarse Grains	3.4 ¹	1.8	2.4	4.4	3.6
Rice	18.3	1.2	4.4	4.2	-1.9
Meat	13.0	5.3	0.5	6.1 ⁶	4.7
Sugar	10.6	5.0	—	10.2	10.2
Soybeans	0.0	—	0.0	4.52 ⁷	—
Soybean Oil	0.1	—	3.8	—	4.1 ⁹
Dairy Products	—	9.3	6.9 ⁵	10.1	7.2
Tropical Products					
Coffee	0.4 ²	0.8	—	0.41	-6.1
Cocoa	0.03 ³	1.0	—	0.14	-4.0
Tea	0.5	—	—	2.34	3.0
Tobacco	0.3 ⁴	—	—	—	—
Cotton	0.9	—	—	2.23	3.7
Groundnuts	1.5	—	—	4.52 ⁷	—
Groundnuts Oil	0.6	—	—	—	4.1 ⁹
Plants and Flowers	—	1.0	—	—	—
Spices	—	0.2	—	—	—

- Note :
1. Single average of maize and sorghus.
 2. Refers to beans : for roasted, 0%; for coffee extracts, 1.4%.
 3. Refers to beans : for butter, 0.5% for powder, 0.8%; for chocolate, 1.8%.
 4. Refers to leaves; for cigarettes, 0.1%, for cigars, 0.8%.
 5. Refers to butter.
 6. Refers to beef, veal and sheep meat; for other meats, 3.1%.
 7. Refers to all oilseeds.
 8. Refers to beef, veal and sheep meat.
 9. Refers to all vegetable oils.

Source : FAO, (1994, p.70).

in Geneva in 1985 led to the Agreement on Trade in Services. In all, 76 WTO members made commitments and around 30 (counting the EU as one) offered improvements in the new accord. The deal, in a nutshell, opens most of the developing countries financial markets to foreign (i.e. developed country) banks, securities firms, insurance and telecommunication companies. It contains provision of asset management and other financial services wholly or partially foreign owned companies. What the developing countries failed to achieve in the deal is the movement of the natural service providers (persons) where they have gained a considerable edge in recent years and that is where they need to fight in the future WTO negotiations to get concessions from the developed countries.

The economies of the developed countries are rapidly transforming into service-based economies, and the world trade of services has experienced a phenomenal growth. In 1984, the total export of commercial services amounted to \$ 403 billion and the share of the first fifteen developed countries (including four Asian countries, viz., Japan, Hong Kong, Singapore and S. Korea) was \$ 269 billion, i.e. 66.7 per cent of the total export amount. In 1993, the figure for commercial service exports of the same 15 countries reached a total of \$ 739 billion, or 72.5 per cent of the world total of \$ 1,020 billion (GATT, 1995, pp. 102-103). So, within a decade, the world export of services grew by two and a half fold and the first 15 developed countries have increased their share of exports as well. According to the UNDP's recent estimate, during 1965-90 while the world merchandise trade tripled, trade in services increased more than fourteenfold; and more than one-fourth of the labour force in the developing countries and more than two-thirds of that in 24 industrial countries are now in services (UNDP, 1995, p. 14).

All these facts and figures clearly highlight that the developed countries have a strong hold on service items. They do not like to and cannot lose their edge in this sector so easily as they have lost the edge to the developing countries in the case of most of the manufacturing industries.

But the developing countries have a very clear ground to argue for the easier trans-border movement of the natural persons with service skills. The developed countries have surplus resources and they wanted barriers to be eliminated. They have advantage in many service sectors; through the GATS they have nearly ensured their market in the developing countries. Now the developing countries have a comparative advantage with skilled natural persons. Logically, they can demand for free movement of these persons in the service sectors of the developed countries where their own people are proving to be slow to adapt themselves to new technologies.

TRIPs and Patenting

The Agreement reached on TRIPs and patenting is increasingly causing dissension in the developing countries. There are enough grounds for this because of the unfolding scenarios relating to two issues. There is a mad rush for patenting each and everything, the field of biotechnology being the forefront of this patenting rush. Such sweeping patent claims can have serious implications as patenting offers a legal means to gain exclusive monopoly control over the patented items. So "species-wide" patent claims on food and industrial crops can pose a threat to world food security.

Ensuring TRIP benefits through patenting processes as well as products will help to raise the prices of many products, particularly of pharmaceuticals and medicines. TRIPs and patenting agreement, as have been reached, will also ensure a steady

flow of resources from the developing countries to the developed countries as TRIP, patent and copyright obligations. This part, the social implications of price rise in essential commodities can not be positive. Moreover, the WTO cannot assist to perpetuate a new form of techno-imperialism under the guise of all these agreements.

These are the major issues which are likely to come up in the near future. A host of other issues will definitely arise as the WTO mechanism gains momentum. The developed countries have to do business with the developing countries and attain mutual benefits. Pitting them always against ever demanding issues and putting them optionless cannot be good trade policy and appropriate economic diplomacy at the global level. The WTO, as a multilateral organisation, has to ensure that concerns of the developing countries are also addressed in the future with equal force and appropriate weightage as an ongoing exercise.

V. CONCLUSIONS

The nature of the WTO's relationships with the outside world particularly with the developing countries is expected to be a delicate one wherein the process of balancing and adjustments between the demands of the rich and poor countries must have to be done. Handling of the emerging issues — some of which arise as the direct consequences of the GATT's earlier agreements and some of which will be entirely new — could prove challenging. Moreover, setting the priorities for the future world trade agenda and assuring their implementation will influence the image as well as the viability of the WTO as a world organisation. The UR negotiations have set the precedence of taking up of many issues which will help to worsen the trade positions of many developing economies. Now

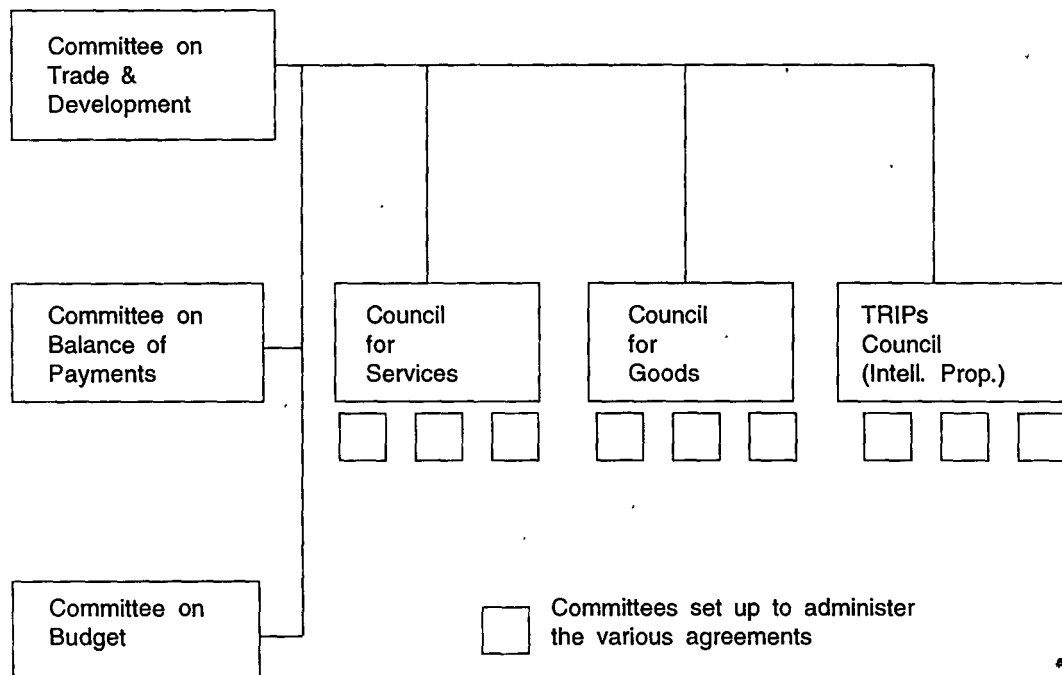
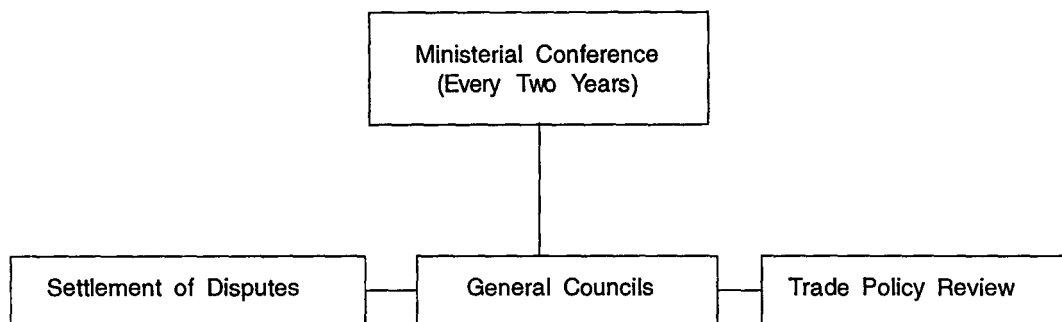
acting on the issues of environment, labour standards, competition policies and setting stringent trade measures or ambitious goals will put enormous pressure on the developing countries and will possibly aggravate their BOP problems. So, provisions for easier financial, technical and technological assistance as well as favourable trade rules are needed for the LDCs to address their problems. The WTO cannot overlook these factors in its future working. Any unholy alliance between the WTO and the two Bretton Woods institutions and other world bodies to generate coordinated pressure on the developing countries must have to be desisted. The WTO with its much improved institutional arrangements to deal with an array of issues like trade policies, related disputes and settlement of disputes is now better positioned than ever before. With the objective of liberalisation of trade the WTO must work. But on its way of working, the system should be fair, fast and efficient. This is possible with the active involvement of the developing countries in both policy making and execution areas. Disrupting or putting pressure on the socio-economic structure of the developing countries will be counter-productive and may cause political fall-out and social upheavals. Equity and fair play have to remain watch words and the establishment of the WTO should be taken as a major step in accelerating the process of globalisation and the creation of a global village in real socio-economic sense which in turn, will contribute significantly to improve the quality of life and optimum allocation of resources and economic value added. It may be emphasised that increasing globalization of the world economy through trade growth is here to stay, but, in the words of Renato Ruggerio, the Director General of the WTO "if we want to enjoy the benefits that substantial trade growth brings, the process of globalization and enhanced interdepend-

ence of nations must be stimulated through new initiatives and trade and economic liberalisation. Future jobs, development, improvements in social welfare, education, health, and environmental protection depend on it. There is no real alternative." Today over 90 per cent of the world trade is covered by the GATT rules, and the WTO has social, moral, legal and functional responsibility to build upon the legacy of the GATT for bringing in a real, just and equitable global society of human beings. With this perspective in view, the future course of action for the WTO has to be concentrated on the following six major tasks : (a) to ensure implementation of the Uruguay Round results in letter and spirit; (b) to take up preliminary work on new issues which are likely to come up or which have already arisen as a result of the growing complexity in managing world economic, trade and business relations; (c) to ensure that regionalism is kept consistent with the principles and objectives of multilateralism; (d) to strengthen the political will of all member countries in extending their commitments to the WTO philosophy and objectives in an ongoing manner through active economic diplomacy; (e) to strengthen and update its own public

relations machinery to increase public awareness of the immense opportunities provided by an open, rule-based trading system for global growth and prosperity; and (f) to ensure adequate funding and quality manpower for servicing all components of the WTO arrangement and all WTO members.

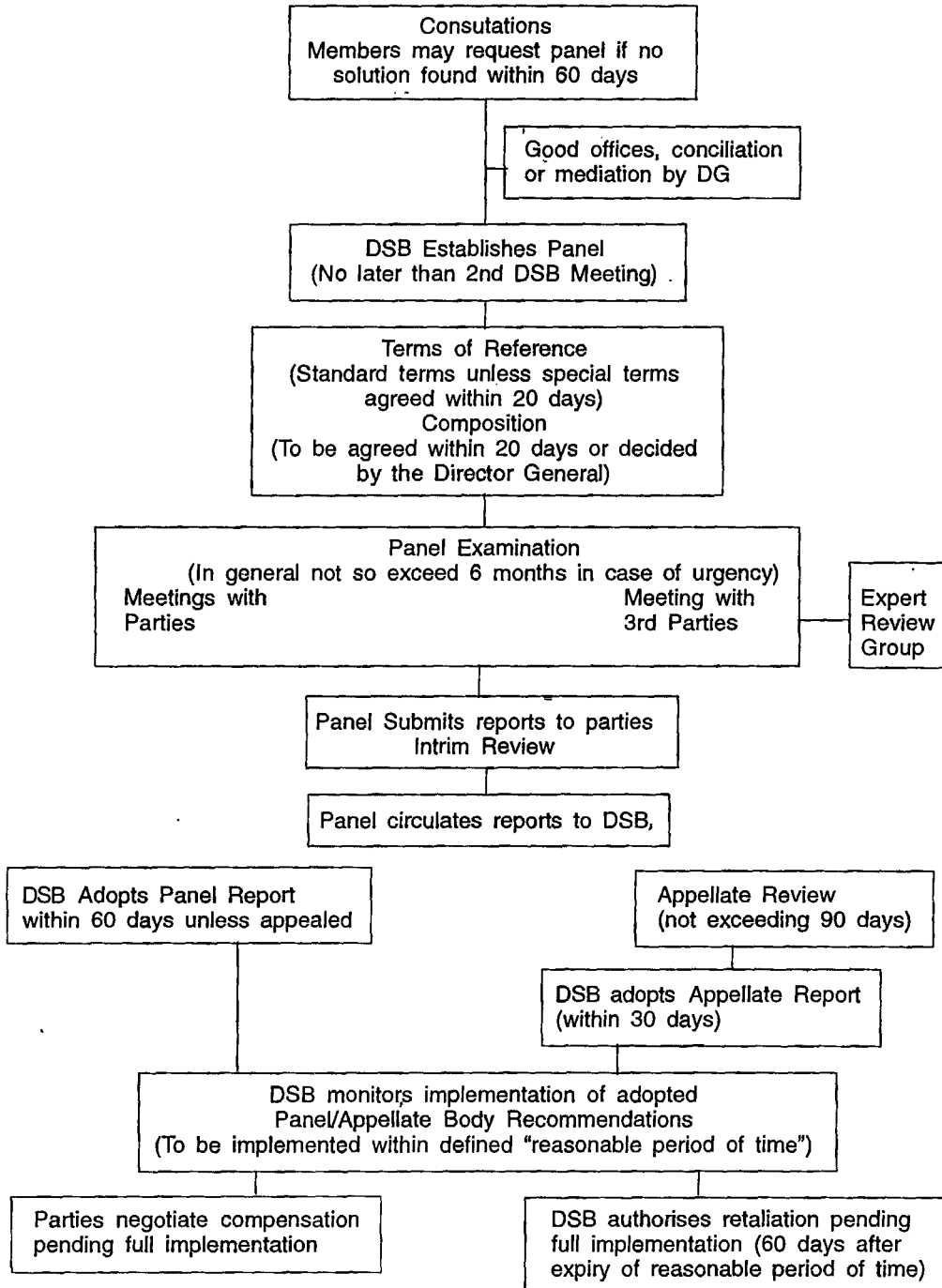
It should be remembered that economic globalisation increases impact of the national competition policies on inter-national trade and, as such, internal economic reform within the member countries should be taken up simultaneously with continuous vigour and political commitment. In the post-Cold War era it would be tragic if narrowly focussed reciprocity concerns, and the seeming attractiveness of immediate sectoral gains built on discriminatory deals, are allowed to jeopardise continuity, stability and expansion in the international trading system which has emerged in the last fifty years through sustained efforts of almost all stake-holders of the world community. In today's world, there is no opposition between a strong defence of the national interest and an open multilateral system which is full of challenges and opportunities for every one.

Annex A1 : Structure of the WTO



Source : GATT (1994c).

Annex A2 : WTO Dispute Settlement Flow Chart



Source : GATT (1994c.)

Annex A3 : Food Deficit Countries

	Food Aid Recipient	Share of Food Imports in Total Imports (%)
Least Developed Countries		
Afghanistan	*	25
Burkina Faso	*	16
Bangladesh	*	25
Benin		
Bhutan		
Botswana	*	
Burundi	*	18
Cambodia	*	
Cape Verde	*	
Central African Republic	*	18
Chad	*	18
Comoros	*	
Djibouti	*	
Equatorial Guinea	*	
Ethiopia	*	15
Gambia	*	
Guinea	*	
Guinea-Bissau	*	35
Haiti	*	
Kiribati		
Lao people's Democratic Republic	*	33
Lesotho	*	
Liberia	*	
Madagascar	*	11
Malawi	*	8
Maldives	*	
Mali	*	20
Mauritania	*	23
Mozambique	*	
Myanmar		8
Nepal	*	9
Kwanda	*	17
Sammoa		
Sao Tome	*	
Sierra Leone	*	21

Annex A3 Contd...

	Food Aid Recipient	Share of Food Imports in Total Imports (%)
Solomon Islands		
Somalia	*	20
Sudan	*	19
Tanzania, United Republic of togo	*	6
Tuvalu	*	22
Uganda	*	8
Vanuatu		
Yemen	*	
Zaire	*	
Zambia	*	8
Low Income Countries		
Anglo	*	
Bolivia	*	11
China	*	5 ¹
Cote D' Ivoire	*	19
Egypt	*	29
Ghana	*	10
Guyana		
Honduras	*	11
India	*	5
Indonesia	*	6
Kenya	*	6
Niacaragua	*	23
Nigeria	*	18
Pakistan	*	15
Phillippines	*	8
Senegal	*	29
Sri Lanka	*	16
Tadjikistan		
Vietnam		
Zimbabwe	*	3

Source : World Food Programme, 1992; Food Aid Review; and World Bank (1994).

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