WTO and GATT-I

The General Agreement on Tariffs and Trade (GATT) is an agreement that was arrived at in 1947 by 23 countries to establish an free and fair international trading regime among member countries based on dismantling of trade barriers -tariffs or non-tariff restrictions like quotas . It came into existence in 1948. India was a founding member. GATT progressed- expanded its scope in terms of areas covered - by a series of "trade rounds"- negotiations centered around a specific set of issues over a period of a few years leading to agreement among members are called a round. GATT GATT was headquartered in Geneva, Switzerland. Eight rounds of such negotiations were held under GATT:

- Havana Round (1947) with 23 countries brought into being the. GATT.
- Annecy (France) Round (1949) (France)
- Torquay Round(England) (1950) (England)
- Geneva Fourth Round (1956)
- Dillon Round (1960-1961) was held in Geneva and were named after Under Secretary of State, Douglas Dillon, who first proposed the talks.
- Kennedy Round (1962-1967) was also held in Geneva but was named after the US President John F Kennedy, in his memory.
- Tokyo Round (1973-1979)
- Uruguay Round (1986-94)

WTO was set up as a result of the Uruguay Round. WTO came into existence in 1995. Doha Round is the first round under the WTO (2001-). It is yet to complete.

As can be seen from the above, the Uruguay round lasted the longest 9 doha round is taking longer) as it took place in a radically different set of circumstances- communism was collapsing; the model of western industrial democracies was becoming more acceptable to the developing countries; USSR disintegrated leaving the third world so much weaker in world diplomacy. New areas were brought into the agenda- intellectual property rights; agriculture; services; foreign direct investment and so on. Initially, the developing countries were reluctant and resisted the expansion of the agenda. But partly due to western force; lack of unity; and partly due to seeing benefits for themselves, they agreed. There was no agreement after protracted negotiations. The Director General of the GATT was asked to draft an agreement for the consideration of the members. It was called Dunkel Draft, named after the Director General Arthur Dunkel. After attaining consensus, it was made into the Marrakesh Treaty and was signed in Marrakesh (Morocco) in 1994 and paved the way for the establishment of World Trade Organization (WTO)at the beginning of 1995.

GATT and WTO

GATT is different from WTO in two essential respects- GATT is a treaty while WTO is an organization. GATT had no dispute settlement process while WTO has. The GATT was essentially concerned with traditional trade issues such as tariffs and quotas in international trade. It had only a relatively small secretariat with no institutional foundation to implement these rules.

The World Trade Organization that came into existence at the beginning of 1995 replaces the General Agreement on Tariffs and Trade(GATT). Like its predecessor, it is headquartered in Geneva, Switzerland. It has 159 members. Roberto Azevedo from Brazil is the current Director-General of the World Trade Organization.GD term is 4 years.

The WTO states that its aims are to increase international trade by slashing trade barriers and providing a platform for the negotiation of trade and related issues . Basically, it sets up a rule based multilateral trading system to liberalise the regime and boost world trade.
Principles guiding the WTO are

- non-discriminatory and rule-based trading system where foreign goods and services should receive the same treatment as domestically sourced ones
- trade barriers (tariffs and non-tariff barriers) should be dismantled and international trade should be free
- less developed countries should receive preferential terms of trade

Unlike other organizations like World bank and the International Monetary Fund(IMF) where there is weighted voting- a country has as much voting power as it contributes financially-, WTO has a 'one country one vote' system making it relatively democratic. Decisions are taken by consensus.

WTO is not part of the United Nations and acts autonomously at the behest of its membership. A global arrangement exists between the two, based on the relationship that had existed between the UN and the WTO's predecessor, the General Agreement on Tariffs and Trade (GATT). This includes provision and exchange of information, representation at each other's meetings and cooperation between the secretariats.

Structure of WTO

Highest level decision-making body of the WTO is the Ministerial Conference, which usually meets once every two years with each member country represented by the commerce minister. Next in authority is the General Council which carries out the decisions of the Ministerial Conferences. It is seated in Geneva. It has representatives (usually ambassadors or equivalent) from all member governments and has the authority to act on behalf of the ministerial conference

There are two other bodies apart from the General Council. They are the Dispute Settlement Body composed of all members, usually represented by ambassadors or equivalent; and Trade Policy Review Body (TPRB) - the WTO General Council meets as the Trade Policy Review Body to undertake trade policy reviews of Members.
Below the above three bodies, at the third level, there are Councils for Trade.The Councils for Trade work under the General Council. There are three councils - Council for Trade in Goods, Council for Trade-Related Aspects of Intellectual Property Rights, and Council for Trade in Services.. Apart from these three councils, six other bodies report to the General Council on issues such as trade and development, the environment, regional trading arrangements and administrative issues.

At the fourth level from the top, there are subsidiary bodies- various committees and working groups related to various fields.

Dispute Settlement

World Trade Organization (WTO) has a dispute settlement body (DSB) that settles trade disputes among members. Disputes can arise from trade policies of members that are violative of the WTO rules.

WTO procedures require sixty days of 'consultations' among the disputants to resolve the dispute failing which a disputes panel is set up.

There is no separate DSB but the General Council which is the second highest body in the organization works as the DSB while giving verdict on the trade dispute. DSB conclusion can be challenged in an appellate body.

After the ruling, the erring nation is directed to make changes in its laws to make them WTO-compliant within a reasonable time. If the 'losing country' does not correct its laws, the complainant country is allowed to take cross retaliatory measures.

On the face of it, it gives all member countries a level playing field as the process is multilateral. But the fact is that there is no punishment for the erring country and ; poor countries can not retaliate against rich countries.

WTO members and observers.
There are 159 members in the WTO. 25 countries enjoy observer status at the WTO. In addition to states, the European Union is a member. WTO members do not have to be full sovereign nation-members. Instead, they must be a customs territory with full autonomy in the conduct of their external commercial relations. Thus Hong Kong (as "Hong Kong, China" since 1997) became a GATT contracting party, and the Republic of China (Taiwan) acceded to the WTO in 2002 as "Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu" (Chinese Taipei) despite its disputed status. Iran is the biggest economy outside the WTO.

Chronology

- 1986-1994 - Uruguay Round of GATT negotiations were deadlocked. Dunkel Draft was the basis for the resolution. It led to the Marrakesh Agreement(Morocco) that resulted in the WTO coming into force.
- January 1, 1995 - The WTO came into existence.
- 1996 - The first ministerial conference in Singapore. Birth of "Singapore issues".
- 1998 – Second ministerial conference in Geneva, Switzerland.
- 1999 – Thi rd ministerial conference in Seattle, Washington, USA
- 2001 - Fourth ministerial conference in Doha, capital of Qatar. A new Round of trade talks begin called Doha Development Round.
- 2001 - The People's Republic of China joined the WTO after 15 years of negotiations (the longest in GATT history).
- 2002 - Taiwan joined under the name "Separate Customs Territory of Taiwan, Penghu, Kinmen and Matsu".
- 2003 – Fifth ministerial conference in Cancún, Mexico . Formation of G20 . Rejection of the 'overloading' of the Doha agenda with Singapore issues though trade facilitation which is one of the Singapore issues was accepted by all
- 2005 – Sixth Ministerial at Hong Kong once again failed to deliver results
- Seventh Ministerial 2009 in Geneva and 8th in 2011 in Geneva
- 9th Ministerial in Bali 2013 December

WTO Agreements
The WTO oversees about 60 different agreements which have the status of international legal texts. Member countries must sign and ratify all WTO agreements on accession. Important among the agreements are the following.

Agreement on Agriculture (AoA)

One of the most contentious issues that the Uruguay Round addressed was agriculture. When the Marrakesh Treaty was signed in 1994, AoA was resisted by the developing countries. They were won over with some concessional features and flexibilities. Its three pillars are

- domestic support
- export subsidies
- market access

Domestic support

It refers to the subsidies that governments give to the farmers like food, fertilizer, power, water etc . The domestic subsidies are grouped into three classes called "boxes": Green Box, Amber Box and Blue Box- the first two being borrowed from the traffic light colours.

Green box

Agriculture-related subsidies that fit in WTO's green box are policies that are not restricted by the trade agreement because they are not considered trade distorting.

To qualify for the green box, WTO says a subsidy must not distort trade, or at most cause minimal distortion.

These green box subsidies must be government-funded — not by charging consumers higher prices, and they must not involve price support. They tend to be programs that are not directed at particular products, and they may include direct income supports for farmers that are decoupled from current production levels and/or prices.Examples: environmental and conservation programs, research funding, extension services, domestic food aid including food stamps, and disaster relief.

Amber box

Agriculture's amber box, according to the WTO, is used for all domestic support measures considered to distort production and trade.

WTO members are required to maintain their amber box supports to within five to 10 percent of their value of production.

Any support payments that are considered to be trade distorting and are subject to limitations and disciplines fall into the amber box.

Blue box

Included in the blue box are any support payments that are not subject to the amber box reduction agreement because they are direct payments under a production limiting program.

Subsidies given by USA and Europe make agricultural goods so cheap that their markets are virtually inaccessible to exports from developing countries. The earlier gains expected by the developing countries from an genuinely free international trade in agricultural goods have not come about as the advanced countries are least inclined to reduce the subsidies to the statutory levels. It is one of the `implementational concerns' in WTO being discussed in the Doha round.

In the Bali ministerial in 2013 December, it was a contentious issue.(Details ahead)

G33

The **G33** is a group of developing countries that coordinate on agricultural trade and economic issues. It was created in order to help a group of countries that were all facing similar problems.

The G33 has proposed special rules for developing countries at WTO negotiations, like allowing them to continue to restrict access to their agricultural markets. **The Group of 33 developing countries that operates in the WTO's agriculture negotiations have similar position on designation of special products where they want to have higher tariffs on imports.**

The G-33, led by Indonesia, has been insisting on a change in WTO rules on agriculture that bring food procurement from poor farmers to feed the poor under a subsidy cap fixed at 10 per cent of farm produce. It has also been demanding a change in the methodology for subsidy calculation that is still based on a price index of 1986-88 and does not factor in inflation.

Export subsidies

"Export subsidies" are to be limited by the developed countries either in value or volume terms so that international prices are not lowered below a point and exports of the developing countries are not priced out..

Market Access

Market access means all member countries should throw open their domestic market to agricultural imports by reduction of tariffs and removal of or non-tariff barriers. Countries should undertake

- 'Tariffication'- to convert non–tariff barriers(like quotas) to tariffs and
- "bind" their tariffs- to agree to a limit that is the 'bounded rate' and not increase the rates beyond them. The bounded rates are usually high

AoA can be expected to, in the long run, benefit the developing countries that have cost advantages in production. However, any such benefits are conditional on the developed countries reducing their subsidies.

TRIPS

Intellectual property (IP) is the work of intellect or mind to create products that have commercial uses- products like drugs, literature, paintings etc. It is protected like the physical property with trade marks, patents etc. Holders of the patents etc are entitled to the commercial proceeds for a specified time period, exclusively

Types of intellectual property rights:

- A patent may be granted for a new, useful, and non-obvious invention, and gives the patent holder an exclusive right to commercially exploit the invention for a certain period of time (typically 20 years from the filing date of a patent application).
- Copyright is given for creative and artistic works (e.g. books, movies, music, paintings, photographs, and software) and give a copyright holder the exclusive right to control reproduction or adaptation of such works for a certain period of time.
- A trademark is a distinctive sign which is used to distinguish the products or services of different businesses.

- An industrial design right protects the form of appearance, style or design of an industrial object (e.g. spare parts, furniture, or textiles).

The need for agreement on TRIPS arises from the fact that the commercial proceeds from international trade in intellectual property are growing in worth.

Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs)
Agreement on TRIPS lays down legal standards for the member countries to protect intellectual property by way of copyright rights; geographical indications, industrial designs; integrated circuit layout-designs; patents; monopolies for the developers of new plant varieties; trademarks. TRIPs regulates dispute resolution procedures and enforcement procedures.

TRIPS and patents
A patent is an exclusionary right. It grants the right to exclude others from making use of the patented invention for the given period of 20 years from the filing date. In return for the patent, the inventor offers the knowledge with commercial use to be put in public domain after the expiry of the patent. Patent is an incentive to innovate and invent. It sustains research and development (R and D)

Product and process patents
Under WTO, patents can be granted for the process or product. Product patents provide for absolute protection of the product exhausting all the process that may lead to the product, whereas process patents provide protection in respect of the technology and the process or method of manufacture. Protection for process patents would not prevent the manufacture of patented products by a process of reverse engineering, where a different process or method from that which has been invented (and patented) is used. For example, national legislation requiring only process patent protection has enabled manufacturers in certain countries to make generic versions of patented medicines. RE (Reverse engineering) made it possible in developing countries to sell medicines cheap. India is a prime example.

TRIPS agreement allows both process and product patents , though only product patents must be awarded for food, pharmaceuticals and chemicals. Patents should be valid for 20 years. Developing countries have 10 years to adopt the TRIPS agreement standards while the advanced countries adopted them by 1995 itself.

TRIPS agreement, is an integrated package . Developing countries that had apprehensions about the product patents agreed to it because they benefited under other agreements- for example, services etc. They agreed also because they received concessional terms under TRIPS- grace period of 10 years to adopt product patents in food, pharmaceutical and chemical fields.

Geographical Indications
There are world famous goods that owe their origin to the region in which they originate and are nurtured. The climate, soil and the native efforts of the region account for their fame, utility and qualities. **Some Indian examples are:** Basmati Rice, Darjeeling Tea, Kanchipuram Silk Saree, Alphanso Mango, Nagpur Orange, Kolhapuri Chappal, Bikaneri Bhujia, Agra Petha , Mysore silk, Nilgiri tea, Coorg coffee, Mysore sandal products, Malabar pepper etc.

GI is granted to a community or group or an institution that represents the interests of the product. It is generally not granted to an individual. It is given to a product for a specific period of time (10 years in India).The product can be an agricultural, natural or manufactured one. The manufactured goods should be produced or processed or prepared in that territory. It should have a special quality or reputation or other characteristics

If these products and processes are given geographical indication registration, commercial proceeds can accrue to the holder of the GI. GIs prevent spurious goods from entering the market It helps maintain quality . There is greater accountability, too. It boosts exports

In 1999, the Parliament passed the Geographical Indications of Goods (Registration and Protection) Act, 1999. This Act seeks to provide for the registration and protection of geographical indications relating to goods in India. The Act is administered by the Controller General of Patents, Designs and Trade Marks- who is the Registrar of Geographical Indications. The Geographical Indications Registry is located at Chennai.

The Geographical Indications of Goods (Registration and Protection) Act, 1999 came into force in 2003. This is a sui generic legislation intended to give better protection to GIs of India.

As per the Geographical Indications Act, 1999 "Any association of persons or producers or any organization or authority established by or under any law for the time being in force representing the interest of the producers of the concerned goods" may file an application for registration of a GI. This is in keeping with the overall objective of the G.I. Act, which is to protect the identity of a particular good that has properties which are attributable to a particular region or which are manufactured in a particular region.

Oranges of Nagpur, paintings of Kangra, Moradabad metal craft and Kolhapur jaggery are among 14 items waiting for Geographical Indications (GI) tag.

Once conferred, the uniqueness of these products will be statutorily insulated from false claimants trying to exploit their regional exclusivity. Already 195 items including Kancheepuram silk and Darjeeling tea from various states enjoy the protection.

The products about to get the protection are: Nagpur orange, Kangra painting, Moradabad Metal Craft, Firozabad Glass, Kannauj Perfume, Kanpur saddlery, Saharanpur wood craft, Dharmavaram handloom pattu sarees and paavadas, Warli painting, Kolhapur jaggery, Thewa art work and three Manipur-based knit works Moirang phee, Wangkhei phee and Shaphee lanphee.

Maharashtra government's Akola-based Dr Panjabrao Deshmukh Kirshi Vidyapeeth has applied for Nagpur orange under horticultural product category, saying the oranges differed from others in growth habit, physical-chemical properties and taste. "Its pulp is tender, saffron or orange coloured with excellent blend of sugar-acid," the application said. It said the fruit is cultivated in Nagpur and Vidharbha region of Maharashtra and some parts in adjoining regions of Madhya Pradesh.

Himachal Pradesh's Kangra Arts Promotion Society has sought GI saying the art form was invogue in the foothills of western Himalayas and pigments used in Kangra paintings are derived from organic and inorganic sources. The central theme of Kangra paintings is love and the recurring themes are six seasons or music or Krishna-Radha or Shiva-Parvati.

Manipur government's department of commerce has sought GI for Moirang phee, Wangkhei phee and Shaphee lanphee, which are shawls/fabric with unique needle work, to be worn as special recognition of honour.

Kolhapur jaggery seeks unique recognition for its white and golden chemical-free product having no added colour, chemicals, additives and flavours. Its application said the jiggery had natural sweetener and contained glucose, vitamins, calcium and minerals.

As of April 2013, Karnataka with 32 GI products topped the national list followed by Tamil Nadu (24), Andhra Pradesh (22) and Kerala (20).

French champagne and cognac, the USA's Napa Valley, the UK's Scotch whisky and Mexican Tequila are among foreign products that have acquired GI tag in India.

Patents (Amendment) Act 2005

Indian Parliament passed the Patents (Amendment) Bill 2005. It introduced product patent regime for food, chemicals and pharmaceuticals. India was required to introduce product patent protection in these sectors from 1.1.2005 in accordance with the obligation under the TRIPS Agreement of the WTO.

Highlights of the Act

- Product patent protection to drugs, foods and chemicals
- availability of Pre-grant and Post-grant challenge
- discovery of a new form of a known substance does not qualify for a patent; nor mere discovery of any new property or new use for a known substance
- Introduction of a provision for enabling grant of compulsory license and parallel imports to meet public health crises

Prior to 1970, 85 per cent of medicines available in India were produced and distributed by multinational corporations (MNCs) and the prices of drugs in the country were among the highest in the world. The 1970 Patents Act of India provided for process patents for pharmaceuticals and agro-chemical products. This enabled the growth of a strong local generic drug industry, which produced the same drugs as the MNCs at relatively low prices . When Indian generic manufacturers such as Cipla, Ranbaxy etc began manufacturing drugs, especially for Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS), at much lower prices, it served a public health cause .The demand for these drugs grew in countries that could not afford to buy these drugs from MNCs.

Indian government accepted TRIPS and product patents because Indian pharma industry is going global and trips help R and D; also, TRIPS is a part of the larger WTO package.

There is a fear that prices of medicines will spiral due to product patents as it can lead to monopoly pricing. Some experts say the fear is unfounded because 97 per cent of all drugs manufactured in India are off-patent and will remain unaffected.

On the positive side, the Act modernizes the law. It helps Indian pharma companies to grow into MNCs. Indian companies can take up contract research. FDI will flow in with all the technological benefits.Safeguard provisions help meet public health concerns. Drug price Control order (DPCO) gives government the power to regulate the prices and make them affordable. Generic manufacturers can continue in India for product patented drugs by paying a reasonable fees. (Generic medicines are unbranded drugs . They can be produced for drugs for which either there is a process patent or the product patent expired. Once product patents are introduced for drugs, generic manufacturers can not continue in India except when they pay a fee if the patent holder agrees)

Another criticism is that it acts as a roadblock to cheap drugs. Indian generic companies brought down the prices of antiretroviral therapy for HIV/AIDS from $12,000 to $140 a year. Two-thirds of the world' s population will be systematically deprived of life-saving drugs when the Indian law comes into effect. Countries in Africa are dependent on Indian generic products and the WHO [World Health Organisation] expressed apprehensions about the Act.

The other criticism is that patents being given for 20 years will stunt technological development in India.

However, supporters argue that that product patents provide an opportunity for greater investment in R and D and exploitation of global markets. Prices also may not rise much as there is bound to be competition and also government regulation. DPCO- Drug Price Control Order of the Government ensures that essential drugs are sold cheap.Another reassurance about whether TRIPS can cripple public health concerns relates to compulsory licensing and parallel imports.

IPRs 2013

The Intellectual Property Appellate Board (IPAB) recently revoked GlaxoSmithKline's patent in India for its breast cancer drug Tykerb, a decision that took its cue from a recent landmark Supreme Court court ruling disallowing "repetitive patents" on the same drug.
The board has, however, upheld the patent for lapatinib, the original compound, citing innovative merit. IPAB ordered that the claimed invention, the salt version of the original drug, is "obvious" and, therefore, has been revoked.

This bears out India's policy stance that incremental inventions lacking "enhanced therapeutic efficacy" as assessed by the patenting authorities under Section 3(d) of the Patents Act won't qualify for patents. In April 2013, the Supreme Court in a landmark ruling rejected Swiss drug-maker Novartis' plea for a patent for its anti-cancer drug Glivec — beta crystalline of a known molecule called imatinib mesylate — saying it lacked novelty and failed to meet the country's patenting standards.

In 2012 , India revoked three patents on grounds that included lack of novelty/inventive step. These were for Pfizer's cancer drug Sutent, Roche Holding's hepatitis C drug Pegasys, and Merck's asthma treatment aerosol suspension formulation.

Compulsory licensing

The Intellectual Property Appellate Board (IPAB) in 2013 upheld the grant of compulsory licence (CL) to the Hyderabad-based Natco Pharma Limited, a generic drug maker, to produce and market Nexavar, a patented cancer drug of multinational pharma major Bayer

Corporation. The order will pave the way for reduction in the prices of costly life saving drugs.

Various international conventions and Indian laws allowed the member countries to grant such compulsory licence in order to make medicine cheaply available to the public.

IPAB directed Natco to pay seven percent royalty.

eg. Bayer obtained a patent in India in 2008 for Nexavar which cost Rs. 2.8 lakh for a pack of 120 tablets, equivalent to a month's dosage. Controller of Patents, Mumbai, granted the first-ever compulsory licence to Natco to make 'sorofenib tosylate', a generic version of Bayer's high-priced anti-cancer drug Nexavar. Natco was told to sell the pack at Rs. 8,800.

Bayer appealed against the Controller's order before the IPAB. Upholding the compulsory licence, the IPAB pointed out that even after obtaining patent, Bayer had not made the drug available on a large scale and at an affordable price within the stipulated time.

The **Anti-Counterfeiting Trade Agreement** (ACTA)

It is a multinational treaty for the purpose of establishing international standards for intellectual property rights enforcement. The agreement aims to establish an international legal framework for targeting counterfeit goods, genericmedicines and copyright infringement on the Internet, and would create a new governing body outside existing forums, such as the World Trade Organization, the World Intellectual Property Organization, or the United Nations.

The agreement was signed in October 2011 by Australia, Canada, Japan, Morocco, New Zealand, Singapore, South Korea, and the United States. In 2012, Mexico, the European Union and 22 countries which are member states of the European Union signed as well. Supporters have described the agreement as a response to "the increase in global trade of counterfeit goods and pirated copyright protected works". Opponents say the convention adversely affects fundamental rights including freedom of expression and privacy. ACTA has also been criticised by Doctors Without Borders for endangering access to medicines in developing countries. It is not Trips Plus but is Trips minus.

In a huge boost to makers of generic medicines, the European Union (EU) parliament in 2012 rejected ACTA.

Public Health Concerns :TRIPS Agreement and Safeguards

Safeguards in the TRIPS Agreement include provisions that allow "parallel imports" and "compulsory licensing."

Parallel importation is the importation of drugs from another country where they are sold at a lower price to meet a public health crisis. It can take place if there are no manufacturers in the country facing the public health crisis and the pharma company that holds the patent for the drug is unwilling to price it affordably for the sake of the ailing public.

Compulsory licensing(read along with material given above) allows a government to temporarily override a patent. Government may issue a compulsory license to a company to produce generics when faced with a public health problem. This allows generic copies of a patented product to be produced domestically, with compensation paid to the patent holder.

Generic copies of patented drugs are much cheaper than the branded drugs. By introducing generics, governments can bring down the price of a certain medicine, thereby ensuring an adequate, affordable stock of the essential drugs. (Generic drugs are unbranded drugs with the same chemical ingredients of a the branded drug)

The compulsory licensing provision arms the government with the power to ensure that medicines are available to patients at affordable rates and has so far been used in Brazil, Thailand and South Africa.

It gives the government the right to allow a generic drug maker to sell cheap but safe versions of patented drugs under certain conditions, without the consent of the patent owner. Multinational drug companies had demanded strong safeguards against the liberal use of the provision when India's patent law was being framed, but the final legislation had kept the grounds for invoking this provision open-ended.

One important positive consequence of the order may be that MNCs may adopt multiple/dual pricing- selling drugs cheap relatively in developing countries.

In his order, the patent controller said Natco's application met three key conditions for granting compulsory licences. First, the German firm was able to supply its drugs to only 2% of the country's patient population and did not meet the 'reasonable public criteria' requirement. That is, it did not make sufficient efforts to make the drug available to public. Second, its price was not "reasonably affordable", and third, it was imported and not manufactured in the country.

Health experts and NGOs have welcomed the order saying it would deter innovator companies from selling their drugs at exorbitant prices.

Sui generis system

TRIPS agreement provides sui generis option regarding patent laws. Sui generis means generating by itself or of itself. It is a choice given to members in the place of patents. That is, they can protect inventions either on the basis of patents or any other indigenous system (sui generis).

GATS

The General Agreement on Trade in Services (GATS) is the set of regulations that governs trade in services among the WTO countries. GATS, which is one of the three agreements along with AoA and agreement on TRIPS was adopted in 1995 and details are being worked out since then .. GATS rules cover a broad range of economic activity such as health care, education, telecommunications, banking, insurance, business process offshoring (BPO), tourism and so on. India is interested in these fields due to its core competence.

With GATS, multilateral trading system extends to services for the first time. GATT, its predecessor did not cover services.

In services, members of the WTO offer one another most favoured nation (MFN) status as they do for physical goods. MFN means grant of non-discriminatory trade- normal trade.

GATS includes direct foreign investment in services. Liberalisation means national treatment to foreign investor; ending public monopolies, as well as deregulation whenever a regulation is considered restrictive for foreign investors and service providers.

GATS negotiations are conducted among members bilaterally on the basis of requests and offers.Requests can be made by any WTO member in any service sector to any member. Each member makes bilateral requests to its major trading partners covering sectors with export interest. These requests ask for full market access and national treatment commitments. National treatment requires that foreign investor should be offered the same terms as the local one.

The GATS agreement covers four modes of supply for the delivery of services in international trade:

	Criteria	Supplier Presence
Mode 1: Cross-border supply	Service delivered within the territory of the Member, from the territory of another Member	Service supplier not present within the territory of the member
Mode 2: Consumption abroad	Service delivered outside the territory of the Member, in the territory of another Member, to a service consumer of the Member	
Mode 3: Commercial presence	Service delivered within the territory of the Member, through the commercial presence of the supplier	Service supplier present within the territory of the Member
Mode 4: Presence of a natural person	Service delivered within the territory of the Member, with supplier present as a natural person	

Trade negotiations

While WB and IMF operate on weighted voting basis, WTO decisions, such as adopting agreements (and revisions to them) are officially determined by consensus of all members. The advantage of consensus decision-making is that it encourages efforts to find the most widely acceptable decision. Small countries and low income countries also weigh for as much as rich countries.

In reality, WTO negotiations proceed not by consensus of all members, but by a process of informal negotiations between small groups of countries. Such negotiations are often called "Green Room" negotiations (after the colour of the WTO Director-General's Office in Geneva), or "Mini-Ministerials", when they occur in other countries.

Doha Round

Doha Round of Trade talks under the WTO began in 2001 in Doha, the capital of Qatar. Doha was the fourth ministerial after the WTO came into force- Singapore, Geneva, Seattle and Doha. It is called Doha Round because the talks were started in Doha. It is called Doha Development Round as it promised to address the issues that were important to the developing countries like India. It has lasted the longest and is yet to complete(2014).

The criticism is that since the developing countries believed that they received a raw deal under the Marrakesh Treaty in matters related to agriculture, patents and so on, they needed additional inducements to agree to the new round of talks..Thus, naming the Round as a Development Round was to pacify the developing countries.

Doha Round aims at further liberalizing international trade for agriculture, industry and services. The need for expeditious completion of the round is because trade as an engine of growth is needed ever more in the present world when global recession has reduced incomes of hundreds of millions of people due to collapse of demand. Also, protectionism is being chosen as a politically convenient strategy by countries including USA. It is a threat to globalization of trade and hurts all members.

Bali package (ahead)

WTO and GATT-II

Bali package

The **Bali Package** is a trade agreement resulting from the Ninth Ministerial Conference of the World Trade Organization in Bali, Indonesia on 3–7 December 2013. It is aimed at lowering global trade barriers. The package forms part of the Doha Development Round, which started in 2001.

The package includes provisions for lowering import tariffs and agricultural subsidies, with the intention of making it easier for developing countries to trade with the developed world in global markets. Another important target is reforming customs bureaucracies and formalities to facilitate trade.

The Bali package consists of ten separate decisions by the Ministerial Conference, covering four areas as follow.

Trade Facilitation

Agreement on Trade Facilitation will reduce red-tape and streamline customs. It will be legally binding, require some expense and a certain level of technology. LDCs will be supported in building capacities to implement the changes. Although, some critics worry governments may have to prioritize funds for trade facilitation over other important areas such as public health or education.

Agriculture: Covers food security in developing countries.

Development and LDC issues: Covers measures Least developed countries (LDCs) and developing countries, including preferential treatment and market access.

Before the agreement, the negotiations repeatedly came close to collapsing. India's demand that it should be allowed to extend its domestic agricultural subsidies indefinitely was met by opposition from the U.S. Eventually, India and the U.S. reached a compromise where a permanent solution to the Indian subsidies will be decided in separate future negotiations within four years.

This was the first global agreement by the WTO.

India and the Bali Package

India had not yielded on the food security issue in the WTO Bali ministerial and, in fact, secured some concessions on the trade facilitation agreement (TFA).

The Bali draft says that till a permanent solution is reached (on the question of issues of asymmetry in the Agreement on Agriculture), members would refrain from approaching the dispute-settlement body against breach of the 10% cap on price-support based food subsidy: peace clause till 2015.

India has also been able to extract a transition period for implementation of certain trade facilitation provisions.

As per the trade facilitation pact, India and developing countries had agreed to improve infrastructure at ports, put in place systems to facilitate faster custom clearances and invest in automation, computerisation and homogenous documentation to facilitate faster movement of goods.

India needs better trade facilitation to increase its share to a more respectable level. But developed countries controlling more than 80% of world trade needed this agreement more than us.

India's objections to amber box provisions and the way they are counted are the following

a. India is not a sizeable global trader in grain and so can not distort market
b. 86-88 as the base year for external reference price is unfair

Trade facilitation

Trade facilitation looks at how procedures and controls governing the movement of goods across national borders can be improved to reduce associated cost burdens and maximise efficiency while safeguarding legitimate regulatory objectives. Trade facilitation as "the simplification, standardization and harmonisation of procedures and associated information flows required to move goods from seller to buyer and to make payment".

Occasionally, the term trade facilitation is extended to address a wider agenda in economic development and trade to include: the improvement of transport infrastructure, the modernization of customs administration etc.

Some examples:

Fiscal: Collection of customs duties, excise duties and other indirect taxes; payment mechanisms

Safety and security: vehicle checks; immigration and visa formalities

Environment and health: Phytosanitary, veterinary and hygiene controls; health and safety measures;

Consumer protection: Product testing; labelling; conformity checks with marketing standards (e.g. fruit and vegetables)

Trade policy: Administration of quota restrictions

Some organisations promoting trade facilitation emphasis the cutting of red tape in international trade as their main objective. Propagated ideas and concepts to reforming trade and customs procedures generally resonate around the following themes:

- Simple rules and procedures
- Avoidance of duplication
- Alignment of procedures and adherence to international conventions
- Transparent rules and procedures
- Mechanisms for corrections and appeals
- Fair and consistent enforcement
- Time-release measures
- Standardisation of documents and electronic data requirements
- Automation
- International electronic exchange of trade data
- Single Window System

Nama and India

Non-Agricultural Market Access

Introduction:

Non Agricultural Market Access (NAMA) relates to trade negotiations on non-agricultural or industrial products. In the NAMA negotiations, WTO Members discuss the terms or modalities for reducing or eliminating customs tariff and non tariff barriers on trade in industrial products.

The product coverage under NAMA includes marine products, chemicals, rubber products, wood products, textiles and clothing, leather, ceramics, glassware, engineering products, electronics, automobiles, instruments, sports goods and toys.

On tariffs, the negotiations take place on the bound tariff which are the bindings taken during the negotiations at the WTO. The bound tariffs are the upper limit of the applied customs tariff which are the tariffs actually applied by the Customs authorities on imports into any country. They can not be breached.

In the NAMA negotiations there are tariffs on which no bindings have been taken and these are known as the unbound tariff lines.

Elements of NAMA Negotiations:

The main elements of the NAMA negotiations are:

(i) Coefficient for the tariff reduction formula: how should the tariffs be reduced by the poor and the rich countries.

(ii) Flexibilities for protecting sensitive NAMA products

(iii) Sectoral initiatives for elimination of customs tariff in specific sectors

(iv) Non Tariff Barrier (NTB)

The deadlock on NAMA negotiations centres around how much tariff cut should be made; what formula should be sued; and whether north and south countries should be treated alike. However, here too the developed and developing countries are divided

Swiss formula and India

Tariff cut formulae are either linear or non-linear. In a linear formula, tariffs are reduced by the same percentage, irrespective of how high the initial tariff is. As opposed to a linear formula, in a non-linear formula, tariff cuts are directly or inversely proportional to the initial tariff rate.

Swiss formula is a non-linear formula. In the Swiss formula, tariff cuts are proportionally higher for tariffs which are initially higher. For instance, a country which has an initial tariff of 30% on a product will have to undertake proportionally higher cuts than a country which has an initial tariff of 20% on the same product.

India's average tariffs are much higher than those existing in the developed countries. If a linear formula for tariff reduction was used, then its reduction burden would have been proportional to that of developed countries. However, using a Swiss formula could lead to India taking on a greater reduction commitment than its developed counterparts with lower initial tariffs.

Nama 11 is a coalition of strong developing countries (including Argentina, Brazil, Egypt, Venezuela and the Philippines). They are fighting to get a fair deal from the north countries. India is a member.

Developing countries' demands and concerns

Developing countries like India, Brazil, South Africa etc want the US to slash its agricultural export and domestic subsidies and the EU to reduce tariffs on agricultural goods so that international market is relatively free of distortion and allows fair competition.

Developed countries demands

The rich countries(North) want the developing countries to open up the domestic markets for the manufactured goods- called Non-Agricultural Goods Market Access(NAMA) which the poor countries are resisting partly because it hurts the domestic industry at this stage and partly to use it as a bargaining lever for reforms expected of the rich countries in agriculture. Agriculture is associated with food security, livelihood security and holds key to self-reliance in these countries.

Rich countries also want liberalization of the services sector in the fields of education, legal advice and insurance.

US and EU consider access to rapidly developing economies as vital to their own growth. The negotiations are not yielding results as the poor countries are not responding to the demands on NAMA positively till their concerns on agricultural subsidy and tariff cut were met. Both the Cancun and Hong Kong Ministerial Meets broke down on this issue.

MFN

The principle of the MFN treatment means that the tariff policy that one country receives in an organization should be extended to all others. Some members may form a preferential trading block within the larger body but all others should atleast receive normal treatment. Contrary to the popular view, the MFN does not mean giving special treatment to imports from another country. It only means normal trading relation- neither positive nor negative discrimination. MFN treatment is not limited to tariffs. It extends on all matters like quotas and other rules related foreign trade.

The members of the World Trade Organization, which also include all developed nations, accord MFN status to each other.

What are the benefits

- It provides level playing field among countries which is the essence of multilateralism
- A country can import from the most efficient source. This may not be the case if tariffs differ by country.
- Same tariffs being given to all countries will lead to customs rule simplification
- Domestic companies can not lobby for protectionist measures as the government is committed to MFN tariffs with all countries.

WTO allows departures from the MFN principle.

- imports from poor countries are allowed at lower/zero tariffs(Generalised System of Preferences (GSP)
- preferential and free trade arrangement among countries of a region and others are allowed- at concessional and free rates respectively
- Article XXIV of the GATT allows Pakistan and India to depart from particular provisions of the Agreement in their bilateral relations pending the establishment of trade ties between them on a definitive basis. It is under this clause that Pakistan has not given MFN status to India, though the latter has extended such status to the former.

Regional Trading Arrangement (RTA) and Multilateralism under WTO

Conceptually, PTA/FTAs should be understood in the context of economic integration among countries- usually in a geographical region.

Preferential Trade Arrangement is the first step towards integration wherein the members agree to trade with one another at a concessional tariff. The same concessional tariff is denied to non-members.

The next step is duty-free trade and elimination of quotas. It is called FTA.

The customs union is a form of economic integration involving two or more sovereign states that stipulates that there be free trade between the member states and a common tariff policy on trade with non-member states.

A common external tariff is the agreement between the parties of the customs union that stipulates that all member states maintain the same tariffs, import quotas, non-tariff trade barriers and preferential policies towards non-member states. This prevents the practice of re-exportation within the customs union, which occurs if one member charges lower tariffs to attract foreign imports, and then re-exports those products to other members of the customs union for a profit under the internal free trade policy. The common external tariff is also useful in that it allows the members of the customs union to combine their economic power in enacting punitive or favorable tariffs towards non-member states.

The most important advantage to forming a customs union is that it represents an important step in the process of economic integration. In today's globalized economy, economic integration is more important than ever, as advancements in transportation technology have made international trade increasingly viable, and economic interdependency has emerged as a tool to facilitate cooperation and conflict resolution.

Later comes common market where there is a free movement of labour, capital, goods and services.

If the common market has the same currency, it is called a monetary union.
The last stage is the economic union in which members have a common currency and fiscal and monetary policies. Presently, the EU is the only example of an monetary and economic union.

As mentioned above, RTAs are allowed under the WTO. Some countries grant themselves concessions in regional and extra-regional trade that other members of the WTO are denied and given only MFN. Benefits are many

- tariffs being a barrier to trade, reducing and removing them boosts trade
- complementarities are established among the regional members
- trade creation is another argument- that is, due to free trade among members more trade is created
- higher production and greater efficiency due to enhanced competition
- free trade within a region is a beginning towards globalization as it prepares the countries to face global competition and secure benefits
- in fact. FTAs catalyse globalization as the benefits at the regional level will accelerate the pace towards a larger scale

- non-economic factors are another major incentive as more peaceful relations among the regional countries will have a a virtuous effect.

The following are the problems

- Trade diversion takes place. It means trade is not created but is merely diverted. Imports are made from the FTA member due to price advantage ,even if a non-member is more efficient
- Also, these arrangements have other undesirable fallout like loss of revenue due to tariff reduction or removal and

Regional economic integration without prejudicing globalization and multilateralism is carried forward with 'open regionalism'."Open regionalism" is defined as external liberalization by trade blocs(PTAs and FTAs) that is, the reduction in barriers on imports from non-member countries that is undertaken when member countries liberalize the trade among themselves. Even as tariffs are reduced for the non-member countries, the level of reduction need not be the same as it is among the member countries.

Regionalism and Multilateralism

While the regional trade blocs erode the MFN principle , the following arguments are advanced to show that they promote globalization

- regional free trade is easier to implement in comparison to globalization as the latter is difficult to accept by the people of the country
- domestic lobbies for protectionism can be resisted more successfully by the government at the regional level initially and later at the global level
- scope for deeper integration at the regional level- not only trade but also comprehensive economic cooperation(investment, collaborations etc)
- open regionalism is a step towards making regional trade blocs global.

Some regional trading arrangements in force and in negotiations :

- The **Transatlantic Trade and Investment Partnership** (also known as the Transatlantic Free Trade Area) is a proposed free-trade agreementbetween the European Union and the United States. The deal is estimated to boost the EU's economy by €120 billion, the US economy by €90 billion and the rest of the world by €100 billion. Talks began in July 2013 and may be finalized by the end of 2014.
- **Regional Comprehensive Economic Partnership (RCEP)** is a Free Trade Agreement (FTA) scheme of the 10 ASEAN Member States and its FTA Partners (Australia, China, India, Japan, Korea and New Zealand) to be concluded by the end of 2015 includes more than 3 billion people, has a combined GDP of about $17 trillion, and accounts for about 40 percent of world trade. First mooted during the 2011 ASEAN Summit in Indonesia, the RCEP negotiation process was formally launched during the 2012 ASEAN Summit in Cambodia.
- **Trans-Pacific Partnership(TPP)** is a proposed trade agreement under negotiation Australia, Brunei,Chile, Canada, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, the United States, and Vietnam. The TPP is intended to be a "high-standard" agreement aimed at emerging trade issues in the 21st century.
- ASEAN Free Trade Area (AFTA) with Brunei, Indonesia, Malaysia, Philippines, Singapore, Thailand, Cambodia, Laos, Myanmar, Vietnam.
- European Free Trade Association (EFTA) between Iceland, Norway, Switzerland and Liechtenstein
- North American Free Trade Agreement (NAFTA) between Canada, U.S. and Mexico

- South Asia Free Trade Agreement (SAFTA) between India, Pakistan, Nepal, Sri Lanka, Bangladesh, Bhutan and the Maldives
- Mercosur is a Regional Trade Agreement (RTA) between Brazil, Argentina, Uruguay and Paraguay, founded in 1991 by the Treaty of Asunción, which was later amended and updated by the 1994 Treaty of Ouro Preto. Its purpose is to promote free trade and the fluid movement of goods, peoples, and currency
- The Andean Community of Nations (CAN) is a trade bloc comprising the South American countries like of Bolivia, Colombia, Ecuador and Peru. Its headquarters are located in Lima, Peru.
- The Economic Community of West African States (ECOWAS) is a regional group initially of sixteen countries, founded in 1975 on the basis of Treaty of Lagos.
- The Southern African Development Community (SADC) seeks to further socio-economic cooperation and integration as well as political and security cooperation among 14 southern African countries.

Groups

G-4 -- the United States, the European Union, Brazil and India. It has developing and the developed world.

G-10 are major food-importing economies like Japan, South Korea, Taiwan, Norway, Switzerland Israel etc. It has rich and poor representatives (Bulgaria etc)

Group of 20 (also called **G20+**) is a bloc of developing nations established in the 5th Ministerial WTO conference, held in Cancun. It stands for drastic reduction in agricultural subsidies by industrialized nations and opposed liberalization like Singapore issues and NAMA. The G-20 accounts for 60% of the world population, 70% of its farmers and 26% of world's agricultural exports

G-33 comprises developing countries like India, Indonesia etc with defensive farm interests that involves protecting farmers from imports. It is an alliance of developing countries on Special Products (SP) and Special Safeguard Mechanism (SSM) in the ongoing agriculture negotiations. It has 42 members including India , Indonesia etc .They are net-food importing developing countries.

While G-20 consists of developing countries with exporting interests as well as defensive interests, the G-33 includes only those developing countries with defensive interest in agriculture.

G-90 is the group of Least developed countries (LDCs) along with other countries from Africa, the Caribbean and Pacific formed G-90 during the Cancun conference in 2003.

WTO Words

- ACP countries - About 70 African, Caribbean and Pacific (developing) countries that have preferential access to the EU market.
- AMS – Aggregate Measurement of Support shows the extent of support- provided by governments to the agricultural sector, including direct payments to farmers and intervention in the market, e.g. through setting minimum prices. There are limits set on AMS under the AOA of WTO.
- Agreement on Agriculture - the first multilateral framework for the long-term reform of agricultural trade, through the creation of specific rules and commitments

for international and domestic agricultural activities, e.g. tariffs, export subsidies and domestic support.

- Amber box - trade and production-distorting policies. They are subject to reduction commitments (AMS).
- Anti-dumping duties – special import duties imposed when a firm, following an enquiry, is assessed as having sold a product in the importing market at a price below the one it charges in the home market or below the cost of production or at less than fair value; and it damages the producers in the importing country
- Blue box – Trade-distorting direct payments to farmers combined with production-limiting programmes, e.g. programmes requiring land to be "set-aside" from production. Blue box support is not subject to reduction commitments in the Uruguay Round. .
- Cairns Group – A group formed in 1986, comprising 17 WTO members dedicated to the fundamental reform of the agricultural trading system. The Chair is Australia. Other members are New Zealand, Argentina, All but three – New Zealand, Australia and Canada – are developing countries.
- Common Agricultural Policy (CAP) - the EU's internal agricultural policy, intended to provide stable agricultural markets and incomes for European farmers and food for European consumers through a system of domestic support, market access protection and export subsidies.
- Countervailing duties - special duties imposed on imports to offset the actual or potential injurious effects (i.e. price undercutting) of subsidies to producers or exporters in the country of export.
- Dumping - exporting goods at a price lower than the price a company normally charges on the domestic market. Governments in the importing country may levy anti-dumping duties, designed to offset the actual or potential injurious effects of dumping practices.
- Export Subsidies – government payments or other financial contributions provided to domestic producers or exporters if they export their goods and services (i.e. contingent on export performance).
- Government procurement – purchases by central and local governments.
- LDCs – Least Developed Countries, group defined by the United Nations on the basis of certain economic indicators. Includes 49 countries .
- Market Access - a negotiated commitment to guarantee a certain level of access in specified sectors.
- Most-Favoured Nation (MFN) – A core principle of the multilateral trading system which requires that normal trade be conducted among all members.
- Multilateral – among many parties, e.g. the WTO is a multilateral organisation involving 148 economies.
- National treatment - In services trade, a WTO member agrees in certain "committed" sectors to treat a foreign supplier no less favourably than a domestic supplier.
- Natural persons - People, as distinct from juridical persons such as companies and organisations. 'Movement of natural persons' concerns the ease of travel through and ability to live and work in other countries.
- Non-discrimination – a core principle of the multilateral trading system under the WTO. It includes most favoured nation (MFN) treatment and national treatment.

- Non-tariff barriers – government measures others than tariffs that restrict trade flows. Examples include quantitative restrictions, import licensing, standards and conformance regulations.
- Plurilateral – among several parties, e.g. the FTAA
- Round – the process of multilateral trade negotiations. Each of the eight sets of negotiations prior to the Doha Development Agenda (DDA) has been called a Round, e.g. the Uruguay Round, the Tokyo Round.
- Rules of origin – the production and content criteria defining where a good comes from. For example, among the FTA countries, any country can import from non-member countries but has to add a minimum value of about 30% or so before it can be traded within the FTA region.
- Safeguard action - temporary measures to allow countries to adjust to heightened competition from foreign suppliers, even where the competition is not a result of dumped or subsidised product.
- S&D – the "special and differential treatment", i.e. flexibility, given to developing countries in implementing WTO commitments, allowing longer phase-in times and addressing concerns such as food security and rural development.
- SPS – Sanitary and Phytosanitary agreement within the WTO dealing with trade affecting human, animal and plant health and life.
- Tariff escalation - tariff rates that increase with each additional level of processing, thus penalising value-added products, as is often the case with our wood exports.
- Tariff peaks – tariffs on particular products that are significantly higher that the typical tariff that the country in question levies on the full range of imports.
- Tariff rate quotas - allow a certain volume of product access at a lower tariff level. A higher tariff is charged on products imported outside the tariff quota.
- Three pillars - Market access, export competition and domestic support are the three pillars of the Agreement on Agriculture.

G33 and SP and SSM

G-33 is an alliance of developing countries on Special Products (SP) and Special Safeguard Mechanism (SSM) in the ongoing agriculture negotiations in the World Trade Organisation (WTO).

The WTO Framework Agreement of 2004 – also known as the July Framework – which laid down the parameters for further negotiations in the Doha Round, contained two major elements of interest to developing countries in the area of agricultural market access

It provided that developing countries would be eligible to designate an appropriate number of products as Special Products, based on their food and livelihood security or rural development needs; and

It also provided for the use of a Special Safeguard Mechanism against surge in imports so as to safeguard domestic producers of agricultural products in developing countries.

WTO and safeguard duty

In the technical language of the World Trade Organization (WTO) system, a **safeguard** is used to restrain international trade in order to protect a certain home industry from foreign competition. A member may take a "safeguard" action (i.e., restrict importation of a product temporarily) to protect a specific domestic industry from an increase in imports of any

product which is causing, or which is threatening to cause, serious injury to the domestic industry that produces like or directly-competitive products.
Safeguards are usually seen as responses to fair trade behaviour, as opposed to unfair trade practices such as

- Dumping
- Subsidy that attracts countervailing duty

As such they are supposed to be used only in very specific circumstances, with compensation, and on a universal basis, i.e., a member restricting imports for safeguard purposes will have to restrict imports from all other countries.

Special Products and Special Safeguard Mechanisms
Special Products (SP) and Special Safeguard Mechanisms (SSM) are key concerns of developing nations involved in WTO negotiations. By using SP and SSM, these nations hope to ensure food security and protect small farmers and the rest of the poor from the vagaries and pressures of international trade in agriculture commodities.

Special Products (SPs)
Special Products (SPs) are agricultural products of particular importance to farming communities in developing countries for reasons of food security, livelihood security and rural development.

It was decided at the Doha Development Round of WTO negotiations that SPs would attract lower levels of tariff reduction commitment than other agricultural products. The rationale is that higher levels of protection on SP will allow developing countries to sustain and develop domestic production of these products, thereby allowing them to protect and enhance livelihoods and food security in their domestic agriculture.

SP is a component of the WTO's Special and Differential (S&D) provision and is available only to developing country members of the WTO.

The Doha Ministerial Declaration recognised the non-trade concerns of developing countries and explicitly mentioned that the Doha Development Round of trade talks would include concessions that will "enable developing countries to effectively take account of their development needs, including food security and rural development".

Since the introduction of the concept of SP, discussions are going on about their selection and treatment. Essentially, the discussion centres on two issues:

- The number of products to be given SP status.
- The modalities to select SPs.

Special Safeguard Mechanisms (SSMs)
Special Safeguard Mechanisms or SSMs are a set of provisions through which a WTO member country can temporarily impose higher than bound tariff rates on the import of a particular agricultural product if there is a sudden surge in imports of that product into the country. The SSM provisions will be available to all developing and least developed country members of the WTO.

SSM is a trade defence mechanism to essentially counter the volatility of international commodity prices. Sudden and sharp declines in the international price of an agricultural commodity could lead to an import surge which, in turn, could damage the viability of domestic production. Even with the available headroom between bound and applied tariff rates, countries may find it difficult to check these surges. In these cases, a temporary measure like SSM will allow developing countries to tide over crises. SSM will allow countries to raise tariffs above their bound levels for a limited duration.

The Hong Kong Ministerial text allows developing countries the right to impose SSMs based on both price and volume triggers. This means that developing countries will have the option of temporarily imposing higher tariff rates on the import of an agricultural product if there is either a surge in its import volume or a sharp dip in its import price. However, the exact mechanisms of the implementation of SSMs have not been spelt out.

To conclude, Special Products and Special Safeguards Mechanisms together can provide a reasonable level of protection to the agriculture sector of developing countries.

Safeguard Duty

When imports of a particular product, as a result of tariff concessions or other WTO obligations undertaken by the importing country, increase unexpectedly to a point that they cause or threaten to cause serious injury to domestic producers of like or directly competitive products, a safeguard which is a form of temporary relief is used. Safeguards give domestic producers a period of grace to become more competitive vis-à-vis imports.

If this happens, the government of the importing country may suspend the concession or obligation, but will be expected to provide compensation by offering some other concession. Otherwise, the affected WTO member(s) can retaliate by withdrawing equivalent concessions. Safeguards usually take the form of increased duties to higher than bound rate or standard rates or quantitative restrictions on imports.

Safeguard duty in India

The Central Government after conducting an enquiry is satisfied that any article is imported into the country in such increased quantities and under such conditions so as to cause or threatening to cause serious injury to domestic industry, then it may by notification impose a safeguard duty on that article.

Faced with complaints from domestic manufacturers of a surge in import of caustic soda, a chemical used as a base for making products such as paper, textiles, soap and detergents, India has initiated investigations for imposing a safeguard duty on it.

The investigation has been initiated by the directorate general of safeguards (DGS following a complaint. The imports have come mostly from China, Qatar, Thailand and Saudi Arabia.

Special safeguard mechanism and safe guard duty: differences

Safeguards are contingency restrictions on imports taken temporarily to deal with special circumstances such as a sudden surge in imports or depressed prices. The special safeguards provisions for agriculture differ from normal safeguards. In agriculture, unlike with normal safeguards:

- higher safeguards duties can be triggered automatically when import volumes rise above a certain level, or if prices fall below a certain level; and
- it is not necessary to demonstrate that serious injury is being caused to the domestic producer.

Special and differential treatment

The principle of special and differential treatment for addressing the concerns of developing countries is incorporated through a number of provisions in the area of market access including, proportionately lower tariff reductions and longer implementation periods, working out a tariff reduction formula after taking into account the different tariff structures of developed and developing countries as well as the new instruments of SP and SSM.

The Ministers are expected to discuss suggestions on SP and SSM in the WTO so that the sensitivities of various members of G-33 could be factored in the first approximation expected in July and also later in the Ministerial Declaration in Hong Kong.

What has India gained from the WTO?

- MFN status in the 159 member body
- Rule based trading system
- Impartial trade dispute settlement process unlike earlier when there was bilateral pressures and threats to fall in line(Super and Special 301 of the USA)
- Definitive schedule for trade liberalization with special protection so as to calibrate alignment with global economy
- Opportunity to throw up MNCs in the pharma sector
- Opportunity to step up agri exports as Indian agricultural reforms yield results and USA and EU reduce their subsidies

The adverse effect is in the from of uncertainties in the age of globalization; drug prices of some products going up due to product patents; farmers feeling the pressure of open trade etc.

WTO: Boon or bane

WTO liberalises International trade and steps up the total output which in turn promotes standards of living for all participants sooner or later. However, the exact impact differs from country to country,- the rich benefiting sooner and more substantially than the poor , in general.

There are many benefits to India from its membership of the WTO

- The globalization process that WTO ensures is the course chosen by India as a part of the economic reforms launched in 1991.
- It is a multilateral trade body with 153 members and so can set the pace for globalization to benefit all
- Most Favoured Nation(MFN) treatment is given to all members within the body by one another. MFN essentially means normal trade among member countries.
- The one country one vote system of decision making makes WTO a democratic body where rich do not command greater voting weightage
- Dispute settlement process is rule based and transparent
- India has advantage in the services sector and will benefit from its opening up
- Lower tariffs, introduced gradually and the right pace, will make Indian economy competitive
- Reduction of subsidies on agriculture by the developed countries will help India tap its agricultural potential to capture global markets

The opponents argue the following

- While globalization is welcome, its pace must be set by the sovereign government
- The agreement on TRIPS works against affordable medicines

- Multinational corporations influence the agreements and their working in WTO to their advantage
- Farmers may lose their livelihood as agriculture is compulsorily thrown open to imports at lower import duties
- Rich countries are not following their treaty obligations and reduce agricultural subsidies and tariffs
- The dispute settlement process gives the impression of being fair and transparent but works against poor countries as there is no way of enforcing the verdict of the dispute settlement body.

TBT and SPS

The Agreement on Technical Barriers to Trade --- commonly referred to as the TBT Agreement --- is an international treaty administered by the World Trade Organization.
TBT exists to ensure that technical regulations, standards, testing, and certification procedures do not create unnecessary obstacles to trade. The agreement prohibits technical requirements created in order to limit trade, as opposed to technical requirements created for legitimate purposes such as consumer or environmental protection.

The TBT agreement is closely linked to the Agreement on the Application of Sanitary and Phytosanitary Measures.

The Agreement on the Application of Sanitary and Phytosanitary Measures - also known as the SPS Agreement is an international treaty of the World Trade Organization.

Under the SPS agreement, the WTO sets constraints on member-states' policies relating to food safety (bacterial contaminants, pesticides, inspection and labelling) as well as animal and plant health (phytosanitary) about imported pests and diseases.

For example, Indian measures against imports of toys from China on safety considerations (first the ban and then its revision to new mandatory safety standards).

Singapore Issues

The first ministerial conference was held in Singapore in 1996. Rich countries introduced four issues that came to be known as the "Singapore issues"

- Investment by foreign companies on same terms as national companies
- Competition laws that deal with monopolies and cartels , price fixing, mergers etc
- Transparency in government procurement and creating a level playing field for all players- domestic and foreign
- trade facilitation: standardization and simplification of customs procedures

The four issues have been controversial. Poor countries do not allow them to be brought into the agendas they feel that they might damage their economic interests. In Cancun Ministerial, trade facilitation is admitted by consensus as it has only procedural implications.
The opposition of the poor countries rests on the following grounds.

- Doha agenda should not be overloaded and the existing issues need to be implemented first like cutting agricultural subsidies.
- large, multinational corporations dominate and threaten the young and growing domestic firms
- they are too intrusive

- policy should be the prerogative of the government . It should be made at its own discretion because such policy depends on a country's unique market conditions

The common theme of three of the issues (investment, competition, government procurement) is to maximise the rights of foreign enterprises to have market access to developing countries through their products and investment; to reduce to a minimum the rights of the host government to regulate foreign investors; and to prohibit government from measures that support or encourage local enterprises.

U.S. and the E.U support the introduction of the Singapore issues arguing that unfair competition/investment and procurement policies distort trade as much as tariffs do, and therefore should be regulated by the WTO rather than left up to individual country governments. However, the US and other developed nations should first implement their commitments in agriculture before expanding the agenda.

H1B Visa Fee Hike and WTO-Compatibility

The recent - Border Security Act – of US earmarks funds from the visa fee hike to pay for the US government's plans to boost security along its border with Mexico to crack down on illegal immigration and drug smuggling.

The visa fee hike "is WTO incompatible and India is considering challenging the US legislation before the World Trade Organisation.

The 600-million-dollar measure, will nearly double visa fees for some Indian information technology workers entering the United States.

The National Association of Software and Services Companies (NASSCOM), which represents India's top software exporters, has said the measure will increase annual US visa costs for the sector by 200-250 million dollars.

The US legislation affects those skilled workers brought in by companies whose employees are more than 50 per cent foreign, a move that largely affects India's IT and outsourcing industries.

US high-tech firms such as Microsoft, which bring skilled immigrants into the United States on the same visas, will not be hit because the vast majority of their workforce is American.
More than half of the world's top 500 companies outsource work to India, which has become the world's back office where Western firms have set up call centres and number-crunching and software development outlets to cut costs.

But the industry also flies employees to the US each year to work at their clients' locations as on-site technicians and engineers.

Under the law, fees for non-immigrant 'H1B' and 'L' visas go up by 2,000 dollars for firms with more than a 50 per cent non-American workforce. The fee now is 2,500 dollars.

Anti-outsourcing sentiment in the United States has been stoked by high unemployment.

US Cotton Subsidies
American subsidies to the cotton growers makes US cotton so cheap that it hurts other countries producing cotton. It distorts international trade. Brazil dragged the USA to WTO on this score and had an important victory in 2009 August. Brazil was allowed to slap sanctions on US goods and drugs upto $300million annually.

Protectionism
Protectionism is the economic policy of restricting trade and economic relations between countries , through methods such as tariffs on imported goods, restrictive quotas, and a variety of other restrictive government regulations designed to discourage imports, and prevent foreign participation in local markets and companies. This policy is closely aligned with anti-globalization, and contrasts with free trade, where government barriers to trade are kept to a minimum. Protectionism refers to policies or doctrines which "protect" businesses and workers within a country by restricting or regulating trade with foreign nations.

Historically, protectionism was associated with import substitution. Contemporary economists agree that protectionism is harmful in that its costs outweigh the benefits, and that it impedes economic growth. Recent examples of protectionism in first world countries are typically motivated by the desire to protect the livelihoods of individuals in politically important domestic industries. US stimulus package encourages `buy American ' philosophy. Whereas formerly blue-collar jobs were being lost to foreign competition, in recent years there has been a renewed discussion of protectionism due to offshore outsourcing and the loss of white-collar jobs. However, most economists agree that the benefits from free trade in the form of consumer surplus and increased efficiency outweigh the losses of jobs.

Instruments of protectionism
A variety of policies can be used to achieve protectionist goals. These include:

- Tariffs: Typically, tariffs (or taxes) are imposed on imported goods. Tariff rates usually vary according to the type of goods imported. Import tariffs will increase the cost to importers, and increase the price of imported goods in the local markets, thus lowering the quantity of goods imported. Tariffs may also be imposed on exports.
- Import quotas: To reduce the quantity and thus protect the domestic producers. The economic effects of an import quota is similar to that of a tariff more or less.
- Administrative Barriers: Countries are sometimes accused of using their various administrative rules (eg. regarding food safety, environmental standards etc.) as a way to introduce barriers to imports.
- Anti-dumping legislation Supporters of anti-dumping laws argue that they prevent "dumping" of cheaper foreign goods that would cause local firms to close down. However, in practice, anti-dumping laws are usually used to impose trade tariffs on foreign exporters.
- Direct Subsidies: Government subsidies (in the form of lump-sum payments or cheap loans) are sometimes given to local firms that cannot compete well against foreign imports. These subsidies aim to "protect" local jobs, and to help local firms adjust to the world markets.
- Export Subsidies: Export subsidies are often used by governments to increase exports. Export subsidies are the opposite of export tariffs, exporters are paid a percentage of the value of their exports. Export subsidies increase the amount of trade and help the local producers.
- Exchange Rate manipulation: A government may intervene in the foreign exchange market to lower the value of its currency by selling its currency in the foreign

exchange market. Doing so will raise the cost of imports and lower the cost of exports, leading to an improvement in its trade balance. However, such a policy is only effective in the short run, as it will most likely lead to inflation in the country, which will in turn raise the cost of exports, and reduce the relative price of imports.

Other initiatives besides tariffs have also been cited as protectionist. For example, some commentators, such as Jagdish Bhagwati, see developed countries efforts in imposing their own labor or environmental standards as protectionism. Also, the imposition of restrictive certification procedures on imports are seen in this light.
Further, others point out that free trade agreements often have protectionist provisions such as intellectual property, copyright, and patent restrictions that benefit large corporations.
There are three types of protectionism:

- help protect infant industries as India followed them in the pre-reform period. It allows domestic industries to grow and become strong before they are opened up for competition
- protectionism for public interest and social good like SP and SSM mechanisms under WTO
- the third variety is when the economy is in crisis and politically it becomes necessary to close the economy for imports to save jobs. For example, may countries in the global recession (2008-09). These are temporary measures lasting till the crisis lasts.

Arguments against Protectionism
Protectionism is frequently criticized as harming the people it is meant to help. Free trade helps all including third world economies and workers. This is because "the growth of manufacturing has a ripple effect throughout the international economy" and creates competition among producers, lifting wages and living conditions. Protectionist proposals stunt economy and make it uncompetitive and so harm jobs and increase prices and lose out on innovation.

The Tragedy of the Commons
It is an influential article written by Garrett Hardin in 1968. The article describes a dilemma in which multiple individuals acting independently in their own self-interest can ultimately destroy a shared limited resource even when it is clear that it is not in anyone's long term interest for this to happen.

Prelims mains 2014

Beggar thy neighbour
It is a policy and means that one nation develops at the expense of others. Beggar thy neighbour, or beggar-my-neighbour policy is an attempt to remedy the economic problems in one country by means which tend to worsen the problems of other countries. The term was originally devised to characterize policies of trying to cure domestic depression and unemployment by shifting effective demand away from imports onto domestically produced goods, either through tariffs and quotas on imports, or by competitive devaluation.

How WTO stop Beggar thy neighbour –

Technical barriers of trade