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India and World Trade Organisation

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Introduction

The World Trade Organization (WTO) is an [inter-governmental organization](#) that regulates [international trade](#). The WTO officially commenced on 1 January 1995 under the [Marrakesh Agreement](#), signed by 123 nations on 15 April 1994, replacing the [General Agreement on Tariffs and Trade](#) (GATT), which commenced in 1948. It is the largest international economic organization in the world. The WTO deals with regulation of trade in goods, services and intellectual property between participating countries by providing a framework for negotiating [trade agreements](#) and a [dispute resolution](#) process aimed at enforcing participants' adherence to WTO agreements, which are signed by representatives of member governments and ratified by their parliaments. Most of the issues that the WTO focuses on derive from previous trade negotiations, especially from the [Uruguay Round](#) (1986–1994).

What is the WTO?

The World Trade Organization (WTO) is the only global international organization dealing with the rules of trade between nations. At its heart are the WTO agreements, negotiated and signed by the bulk of the world's trading nations and ratified in their parliaments. The goal is to help producers of goods and services, exporters, and importers conduct their business.

WTO Objectives:

1. To improve the standard of living of people in the member countries.
2. To ensure full employment and broad increase in effective demand.
3. To enlarge production and trade of goods.
4. To increase the trade of services.
5. To ensure optimum utilization of world resources.
6. To protect the environment.
7. To accept the concept of sustainable development.

WTO Functions

Among the various functions of the WTO, these are regarded by analysts as the most important:

- It oversees the implementation, administration and operation of the covered agreements.
- It provides a forum for negotiations and for settling disputes.

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Additionally, it is WTO's duty to review and propagate the national trade policies, and to ensure the coherence and transparency of trade policies through surveillance in global economic policy-making. Another priority of the WTO is the assistance of [developing](#), least-developed and low-income countries in transition to adjust to WTO rules and disciplines through technical cooperation and training.

1. The WTO shall facilitate the implementation, administration and operation and further the objectives of this Agreement and of the Multilateral Trade Agreements, and shall also provide the framework for the implementation, administration and operation of the multilateral Trade Agreements.
2. The WTO shall provide the forum for negotiations among its members concerning their multilateral trade relations in matters dealt with under the Agreement in the Annexes to this Agreement.
3. The WTO shall administer the Understanding on Rules and Procedures Governing the Settlement of Disputes.
4. The WTO shall administer Trade Policy Review Mechanism.
5. With a view to achieving greater coherence in global economic policy making, the WTO shall cooperate, as appropriate, with the international Monetary Fund (IMF) and with the International Bank for Reconstruction and Development (IBRD) and its affiliated agencies.

WTO Agreements:

The WTO's rule and the agreements are the result of negotiations between the members. The current sets were the outcome to the 1986-93 Uruguay Round negotiations which included a major revision of the original General Agreement on Tariffs and Trade (GATT). GATT is now the WTO's principal rule-book for trade in goods. The Uruguay Round also created new rules for dealing with trade in services, relevant aspects of intellectual property, dispute settlement and trade policy reviews. The complete set runs to some 30,000 pages consisting of about 30 agreements and separate commitments (called schedules) made by individual members in specific areas such as, lower customs duty rates and services market-opening. Through these agreements, WTO members operate a non-discriminatory trading system that spells out their rights and their obligations. Each country receives guarantees that its exports will be treated fairly and consistently in other countries' markets. Each country promises to do the same for imports into its own market. The system also gives developing countries some flexibility in implementing their commitments.

WTO and GST

[Foreign Trade Policy](#) review to take in GST-related developments In a related development, a commerce ministry official suggested that the government was trying to meet the September deadline for finishing the mid-term review of the [Foreign Trade](#)

Saarth

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Policy (FTP) (2015-2020). The policy was earlier scheduled to coincide with the July 1 roll-out of the goods and services tax (GST) regime but had been deferred in order to take into account changing trends in trade owing to GST, he added. Earlier, senior officials had suggested that the reviewed policy may see the current target of \$900 billion worth of exports by 2020 rolled down. The role of exports in achieving a quicker pace of economic development in India becomes all the more important in the wake of strong upward revision of global export prospects for 2017 to 3.6% by the WTO as against 2.4% earlier. While, on one hand, exports are encountering a volatile foreign exchange situation, on the other hand exporters are trying to adapt to the new indirect tax regime of GST. Zero-rating of exports: In India, exports were zero-rated even when there was no VAT before 1986 for central excise duty, since it is possible to zero-rate exports without having an all-comprehensive VAT/GST. Evidence suggests that zero-rating does make exports more competitive. Unlike exempt supplies, which are input-taxed, zero-rating of supplies (as per Section 16 of IGST Act, 2017) helps maintain an uninterrupted input tax credit (ITC) flow across the whole production-distribution chain. In order to have a seamless flow of ITC under GST, exemptions are not available even for exports. Significant changes in export procedures: In GST regime, supplies of goods by manufacturer exporter to merchant exporter for export purpose is leviable to GST as the two have different PAN (so different GSTIN). Unlike earlier excise regime, the design of GST is such that it does not recognise merchant exporter and manufacturer exporter (for export of same goods) as same transaction, so even merchant exporter is now required to pay integrated tax upfront and later claim refund. The concept of merchant exporter, as understood in the earlier indirect tax regime, is no more valid in the GST era. Importers would thus have to pay integrated tax and then take ITC as applicable under GST rules. ITC for exports under GST are WTO-compliant.

India's Commitmentst WTO (Major agreements of WTO)

All these agreements were concluded during negotiations of Uruguay round i.e. in or before 1995. In most agreements new proposals have been brought in by different countries, which we will discuss later.

1. Agreement on subsidies and countervailing measures – SCM

The WTO SCM Agreement contains a definition of the term “subsidy”. The definition contains three basic elements: (i) a financial contribution (ii) by a government or any public body within the territory of a Member (iii) which confers a benefit. All three of these elements must be satisfied in order for a subsidy to exist. In order for a financial contribution to be a subsidy, it must be made by or at the direction of a government or any public body within the territory of a Member. There are four types of “specificity” within the meaning of the SCM Agreement:

- Enterprise-specificity. A government targets a particular company or companies for subsidization;

Saarth

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- Industry-specificity. A government targets a particular sector or sectors for subsidization.
- Regional specificity. A government targets producers in specified parts of its territory for subsidization.
- Prohibited subsidies. A government targets export goods or goods using domestic inputs for subsidization. Hence there are two types of prohibited subsidies –

2. Subsidies contingent upon export performance.
3. Subsidies contingent upon use of domestic content over imported goods.

production in foreign markets. It is aimed at wiping out target country's industry. Anti-Dumping Duty is aimed at counterbalancing such subsidization.

2. General Agreement on Trade in Services – GATS

The GATS was inspired by essentially the same objectives as its counterpart in merchandise trade, GATT: creating a credible and reliable system of international trade rules; ensuring fair and equitable treatment of all participants (principle of non-discrimination); stimulating economic activity through guaranteed policy bindings; and promoting trade and development through progressive liberalization. West is pushing hard to move from positive list approach to negative list approach.

Mode 1 – It includes cross border supply of services without movement of natural persons. For eg. Business Process Outsourcing, KPO or LPO services. Here, it's in India's interest to push for liberalization given its large human resource pool and competitive IT industry.

Mode 2 – This mode covers supply of a service of one country to the service consumer of any other country. E.g. telecommunication

Mode 3 – Commercial presence – which covers services provided by a service supplier of one country in the territory of any other country. This opens door of relevant sector in one country to investments from another country. Accordingly, it is in west's interest to push for liberalization here. There has been sustained pressure to open up higher education sector, insurance sector, Medical sector etc through this mode.

Mode 4 – Presence of natural persons – which covers services provided by a service supplier of one country through the presence of natural persons in the territory of any other country. E.g. Infosys or TCS sending its engineers for onsite work in US/Europe or Australia. Here again it's in India's interest to push for liberalization. In 2012, India dragged the US to the World Trade Organization's (WTO's) dispute settlement body (DSB) over an increase in the professional visa fee (H1B/L1).

3. TRIPS

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is an international agreement administered by the World Trade Organization (WTO) that sets down minimum standards for many forms of intellectual property (IP) regulation as applied

Saarth

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to nationals of other WTO Members. It was negotiated at the end of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) in 1994.

4.TRIMS

The Agreement on Trade-Related Investment Measures (TRIMS) recognizes that certain investment measures can restrict and distort trade. It states that WTO members may not apply any measure that discriminates against foreign products or that leads to quantitative restrictions, both of which violate basic WTO principles. A list of prohibited TRIMS, such as local content requirements, is part of the Agreement. Recently India was dragged to WTO by U.S. over former's specification of Domestic Content Requirement in relation to procurement of Solar Energy cells and equipments.

5.AOA

WTO's agreement on agriculture was concluded in 1994, and was aimed to remove trade barriers and to promote transparent market access and integration of global markets. Agreement is highly complicated and controversial; it is often criticized as a tool in hands of developed countries to exploit weak countries. Negotiations are still going on for some of its aspects. Agreement on agriculture stands on 3 pillars viz. Domestic Support, Market Access, and Export Subsidies.

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