

# India & The WTO

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## MINISTRY GOES ONLINE ON WTO ISSUES

As part of its transparency initiative, the Department of Commerce in the Ministry of Commerce and Industry has decided to put on its website background papers and briefs on important issues that may be negotiated or discussed in the World Trade Organisation (WTO) in the near future. **The first in the series of such web pages - relating to negotiations in services (titled : "Background Paper on Mandated Negotiations under the General Agreement on Trade in Services (GATS) in WTO", the text of which is reproduced below)** has already been put on the Commerce Department's website (<http://commin.nic.in>). **We invite you to e-mail your comments and suggestions at the following address : [schaudhuri@ub.delhi.nic.in](mailto:schaudhuri@ub.delhi.nic.in) on the subject of negotiations in services.**

### Text

## Background paper on mandated negotiations under the General Agreement on Trade in Services (GATS) in WTO

### The Background :

1. **Negotiations of specific commitments are mandated under Article XIX of GATS** which states that "in pursuance of the objectives of the Agreement, Members shall enter into successive rounds of negotiations beginning not later than 5 years from the date of entry into force of the WTO Agreements and periodically thereafter, with a view to achieving a progressively higher level of liberalisation". **A fresh round of comprehensive negotiations on specific commitments has, therefore, commenced in the WTO from January 1, 2000**
2. The mandate of the negotiations is clearly laid out in Part IV of GATS entitled "Progressive liberalisation". Thus, **the main aim of these negotiations is to achieve greater degree of liberalisation in all the service sectors and in all the four modes of supply of delivery of Services.** The negotiations will be comprehensive, covering all sectors and modes of supply, with no a priori exclusions in order to achieve an overall balance of all the WTO members. **The Services Sectoral Classification List under GATS has listed out 12 sectors and 161 sub-sectors all of which will be part of these negotiations.**

3. **The GATS recognises 4 modes of delivery of Services.** These are as follows :

- I. **Mode 1** - Cross border supply, e.g. supply of diskettes, architects blueprints, etc.
- II. **Mode 2** - Consumption abroad, e.g. a tourist availing of Services abroad
- III **Mode 3** - Commercial presence, e.g. form of legal entity established abroad like a bank branch
- iv. **Mode 4** - Movement of Natural Persons, e.g. physical movement of professionals, skilled and unskilled labour for temporary period. It does not cover permanent migration

4. **In the Uruguay Round, each Member has undertaken a schedule of specific commitments.**

The schedule of specific commitments of each Member involves a positive listing of sectors/sub-sectors and modes of supply where the Member desires to undertake specific commitments. Those, which are not listed, are not subject to any commitments. Besides, even in the listed sector/sub-sector and any particular mode, Members may keep the commitments as “unbound”, which implies no commitments. In the listed sectors/sub-sectors and modes of supply, where Members take some commitments, Members can schedule some limitations on market access, national treatment and on additional commitments as permitted under relevant provisions of GATS. **Thus, there is considerable flexibility provided to Members under this Approach.**

5. **The basic architecture of GATS is most likely to be preserved in the next Round of Services Negotiations as well.**

However, it is also true that there will be both broader and deeper liberalisation undertaken by Members as a result of new round of Services negotiations involving commitments in more sectors and removal of exiting restrictions in those sectors that have been scheduled earlier.

**The state of play in Services negotiations :**

6. While the forthcoming Round will cover all sectors and modes of supply as earlier mentioned, the emphasis of developed and developing countries is likely to be

different. **Developed countries would in all probability press for greater liberalisation in mode 3** relating to commercial presence since they would be interested in providing market access for their capital. Hence, the pressure on developing countries, including India, would be to provide greater market access in mode 3 and schedule more sectors in this mode. On the other hand, **for many developing countries including India, the most important source of export would continue to be mode 4 relating to “Movement of Natural Persons”.** India, in particular, has interests in seeking greater market access for its professionals and skilled labour in mode 4 because of its surplus trained and skilled manpower. Thus, the trade-off in these negotiations are bound to be cross-sectoral with India seeking market access mainly in professional service sectors and others demanding greater market access in infrastructure sectors like Financial Services, Telecommunication Services, Transport Services, Distribution Services, etc.

7. It may also be mentioned that the **basic Approach of these negotiations would most likely continue to be the Request and Offer Approach as in the previous round.**

Under this approach, countries would lay on the table, their requests (demand lists from other trading partners) and would in turn also place their offer list. India would also have to prepare such a Request and Offer List for the various sectors and modes of supply. **There may be some attempts by developed countries to introduce horizontal or formula approach in addition to this Approach to facilitate cross-cutting liberalisation.** Specific suggestions for development of such formulas include :

- a. Establishment of standardised minimum liberalisation commitments on a sub-sectoral or on a modal basis;
- b. Exclusion of certain types of restrictions like nationality requirements across the board;
- c. Classification of sectors on a cluster basis and commitments based on the cluster;
- d. Use of model schedules (those used for Financial Services and Basic Telecommunication Services)

However, India believes that horizontal formulas should not in any way curtail the flexibility in scheduling commitments and change the basic structure of GATS. Hence, they may be used at best as practical tools for facilitating scheduling and adding to the clarity of schedules and should not force commitments in sectors which otherwise members may not wish to schedule. The basic approach must continue to be the Request and Offer approach.

8. **India's main interest and focus area in these negotiations would be to provide effective market access to its professionals and skilled labour force and bring about a symmetry in the movement of capital and labour.**

9. **In order to provide effective market access to professionals, it would be necessary to take the following steps :**

- a. **Economic Needs Test should be totally eliminated** for at least certain specified categories. At a minimum, it should be based on transparent and objective criteria.
- b. **Social security contributions** required to be made even for temporary movement even though they are not eligible for receiving benefits of such contributions also affect their comparative advantage and needs to be corrected.
- c. Administration of visa regimes may be made more transparent. **Notion of a separate GATS visa for personnel covered by horizontal and sectoral commitments** scheduled by a Member, different and less onerous from the normal immigration visa may be considered.
- d. **Specific sectoral commitments** in line with requirements of developing countries need to be taken. For this purpose, more detailed sub-classification of categories of personnel and their inclusion in sectoral/horizontal commitments may be required.
- e. **Recognition of qualifications by developed countries** often acts as a serious barrier to market entry. It would be necessary to work for the establishment and adoption of minimum international standards and criteria for

recognition. There should be a mechanism to attend to specific problems being faced by developing countries regarding the mutual recognition of qualification so as to ensure complete equity and fairness on recognition matters.

10. India believes that the sectors where market access for its professionals is specifically required are the following :

- a. **Health**
- b. **Software**
- c. **Construction and Engineering**
- d. **Legal and**
- e. **Accountancy.**

11. **India's negotiating strategy for each of these Services sectors would cover the following areas:**

- (a) **The commitments under each of the four modes of supply that India is willing to undertake in the particular sector** in the next round of negotiations. It would also indicate, the kinds of limitations on market access that India may put in its schedule in case it is willing to undertake commitments. It would also indicate, wherever relevant, the autonomous liberalisation measures undertaken by India since the Uruguay Round and the extent to which India may be agreeable to multilaterally bind such measures.
- (b) **The commitments in each of the four modes of supply that India would want to demand from its major trading partners** in that particular sector, including the limitations on market access and on national treatment that may be removed/made less restrictive as compared to the trading partners' existing schedules.
- (c) **The domestic policies and regulatory matters that have a bearing on market access available in the sector and the proposed changes therein.** Such domestic

regulations/policy changes may be required in case India is to fully exploit potential in that sector. Further, in many cases such regulations/policies may be acting as a hindrance to the development of that particular sector and even autonomously, India may be prepared to make such changes.

### Government invites comments and suggestions from all stake holders

12. The above note sets out the state of play for the mandated Services negotiations in the WTO that has commenced from January 1, 2000. **It is important that all of India's concerns and interests are addressed during these negotiations.** Keeping this in view, we

would request for specific comments/suggestions from all concerned on the various issues raised in the above note. **Interested persons may also be able to obtain more information in the Services arena from the website of the WTO-[www.wto.org](http://www.wto.org). Specifically, we would request for comments on paras 9,10 and 11 of this note** indicating the kind of barriers that may be faced by Service suppliers from India in various Service sectors in markets abroad. Qualification problems being faced by them may also be mentioned. Changes in domestic policies and regulations that they consider necessary along with suitable justifications may also be mentioned.

(Ministry of Commerce & Industry, Department of Commerce  
(Trade Policy Division) Government of India)

## SERVICES : A GLOSSARY

**GATS** : The WTO General Agreement on Trade in Services. First multilateral agreement to provide legally enforceable rights to trade in all services. Covers about 12 service sectors and 155 sub-sectors. Under GATS negotiations, Members have successfully negotiated sectoral agreements on Basic Telecom Services, Financial Services, Air Transport Services, etc.

**Modes of Delivery** : How international trade in services is supplied and consumed. In other words, these are the ways in which a service can be rendered. They may include sales through establishment, cross-border sales, and the movement of persons involved in the provision of services. The GATS Agreement identified the supply of service under mode 1: cross border supply (provision of the service from the territory of a Member to the territory of another Member); Mode 2: consumption abroad (movement of the consumer from his country of origin to the country of supply of such services, etc.); Mode 3 : commercial presence (right of establishment, i.e. through foreign direct investment); and Mode 4 : movement of natural persons.

**Movement of Natural Persons** : Annex to the GATS Agreement, specifying that natural persons who are themselves service providers or employed by the service providers are allowed to supply services abroad in accordance with specific commitments made in the National Schedules relating to entry and stay.

**Schedule** : "Schedule of Specific Commitments"-A WTO Member's list of commitments regarding market access and bindings regarding national treatment.

(Source : WTO Defined - A Glossary of terms by Bibek Debroy and P.D. Kaushik)

## Maran's assurance to domestic industry

*(Statement made by the Commerce & Industry Minister Mr. Murasoli Maran in Rajya Sabha on May 4, 2000 in reply to a calling attention notice regarding the adverse effects of liberalisation of trade and free import of items manufactured by Indian industry, especially those in the small scale sector)*

Under the General Agreement on Tariffs and Trade (GATT), 1947 all Members were obliged to remove all the Quantitative Restrictions (QRs) maintained on imports. India, being a founder member, was also obliged to remove the QRs but it took recourse to exception provided in GATT for maintaining such QRs owing to balance of payments (BoP) difficulties.

However, from 1995 onwards, with substantial improvement in India's BoP position, certain Members questioned India's continued justification for maintaining QRs on BoP grounds. India could negotiate with all other trading partners, with the exception of USA, for phasing out these QRs. USA filed a dispute against India in WTO and the Dispute Settlement Panel ruled against India. India filed an appeal before the Appellate Body of WTO against the findings of the Panel but the Appellate Body also upheld the findings of Panel. Both these Reports were adopted by the Dispute Settlement Body (DSB). Consequently, a bilateral Agreement was signed between India and USA for determining the reasonable period of time for implementing the rulings and recommendations of DSB. As per the Agreement, QRs on 714 items have been removed with effect from April 1, 2000 and QRs on remaining 715 items are to be removed by April 1, 2001.

This is not the first time that QRs have been removed. At the time of initial announcement of tariff-line wise import policy on April 1, 1996 out of 10202 tariff lines 6161 tariff lines were already free. Thereafter during 1996-97, 1997-98 and 1998-99, QRs were removed on 488, 391 and 894

tariff lines respectively. It is, therefore, evident that over the years QRs have been removed progressively in line with our international commitments and policy of economic liberalisation. This has primarily been possible on account of improvements in our balance of payments position since 1991. QRs in respect of all tariff lines except a few items which were canalised were withdrawn, for imports from SAARC countries with effect from August 1, 1998.

A perusal of import data reveals that there has not been any surge of imports as a consequence of removal of QRs. In fact, the rate of growth of imports which stood at 36.40% in 1995-96 has come down progressively over the years to 13.2% in 1996-97, 11% in 1997-98 and 14.2% in 1998-99.

For the protection of domestic industry, including SSI units, the Government can, if the situation so warrants, utilise the mechanism of raising the applied tariffs within the bound rates, if such a gap exists and take measures such as Anti-Dumping action, imposition of Countervailing Duties and Safeguard Actions which are permissible under the WTO Agreements. The imports are closely monitored and Government are determined to ensure through the appropriate use of the above mechanisms that imports do not cause any serious injury to the domestic producers.

The Government have also taken a decision to introduce a Bill for amending the provisions of Foreign Trade (Development & Regulation) Act, 1992 so that Safeguard Action in the form of QRs could be applied if situation so warrants.

### Quantitative Restrictions

No. of Items	Pre-Exim Policy (i.e. before April 1, 2000)	Post-Exim Policy (i.e. from April 1, 2000 onwards)
Restricted list	700	454
SIL	685	228
Canalised	44	33
Total	1429	715

Note: ● 3 Items from Canalised shifted to OGL ● 481 Items from SIL shifted to OGL ● 230 Items from Restricted List shifted to OGL - i.e. a total of 714 shifted to OGL  
● 16 Items shifted from Restricted List to SIL  
● 8 Items shifted from Canalised to SIL

## Q & A

(P.P. Prabhu talks about the post-Seattle scenario & India's concerns in an exclusive interview) \*

**Q. 1 : What are the main areas of concern to India in the post-Seattle scenario ?**

**Ans. :** Our main areas of focus now are the agricultural and services sectors where the mandated negotiations have already commenced in a formal sense from 1.1.2000. We are also keen that the implementation concerns duly raised by developing countries during the Seattle Preparatory Process are fully addressed and concretely resolved. Towards this objective, we will be pursuing actively our implementation proposals in the special sessions of the General Council which will be convened for this purpose. We are also using the time that has become available now before the next session of the Ministerial Conference to rethink our strategies and to prepare ourselves even better for effectively participating in the Ministerial meeting as and when it may be held.

**Q. 2 : What briefly is the current state of play in the WTO with specific reference to our concerns and what are our main objectives/priorities in the multilateral trade negotiations?**

**Ans :** WTO is now getting ready to deal with the mandated negotiations in the agricultural and services sectors. We are busy preparing ourselves for these negotiations through interactions with ministries, the state governments, specialised institutions and experts in these fields and the stakeholders. We will also be pursuing our implementation concerns very actively in the special mechanism that has been set up for this purpose. We are not **demandeurs** for multilateral trade negotiations in other areas. **Our approach while considering such proposals for fresh negotiations will depend on whether they can ensure greater market access for products and services of developing countries since that alone can provide for sustainable growth and development.** We would also firmly oppose

proposals to bring in non-trade related issues into the WTO framework.

**Q.3. : In some areas where the transition period expires or has expired in the year 2000 (eg., TRIMS), India had proposed an extension of the transition period. There has been some uncertainty in this regard in view of the fact that the Seattle Ministerial Conference ended without a definitive outcome/ decisions. What is that status of such proposals, specifically those relating to extension of transition periods?**

**Ans :** In respect of extension of transition periods for notified TRIMS maintained by different countries, a decision has been taken by the General Council (GC) on 8th May, that individual requests for extension of transition periods submitted by countries will be given positive consideration by the Council for Trade in Goods. In respect of certain other transition periods, in his statement of 3rd May in the General Council, the Chairman has stated that he is fully prepared to consult further on these issues as necessary. In certain of the cases the issue may also get subsumed as part of the implementation proposals which will be taken up by the special sessions of the GC.

**Q. 4. : There has been criticism in the past that India has only been reacting to issues raised by developed countries and not following a proactive agenda in the WTO. What, in your view, are the proactive elements in India's strategy on WTO issues which will help in maximising our gains from the multilateral trading system?**

**Ans. :** Such a criticism is perhaps not appropriate, particularly now. **The Government has already put in place interactive mechanisms for dialogue with the industry associations, experts and think tanks, stakeholders and NGOs apart from having regular**

\* (Mr.Prabhu gave this interview as Commerce Secretary on the eve of his superannuation on 31st May, 2000)

inter-ministerial consultations within the government itself. At the website of the Ministry of Commerce, we have also invited suggestions from the public at large requesting for inputs that they are willing to provide and which we could benefit from. Presently, for instance, any ideas or suggestions relating to the services or agriculture negotiations will be extremely valuable. Of course, it is our considered view at present that WTO need not embark on fresh negotiations on a new set of issues since there are already the mandated negotiations to be dealt with. Implementation issues also need to be addressed as a matter of urgency. **It is very important that the agenda of WTO is not overburdened.** Taking such a position should not however be interpreted as not being proactive.

**Q. 5 : The General Council of the WTO met in Geneva on May 3, 2000. Could you summarise the deliberations of this meet and indicate briefly its outcome?**

**Ans. : The WTO General Council Meetings held on 3rd and 8th May 2000** discussed proposals relating to the following four items which were on the agenda:

- a) Measures in favour of Least Developed Countries;
- b) Capacity Building through Technical Cooperation;
- c) Implementation issues and transition periods; and
- d) Internal transparency and effective participation of members.

Since most of the above agenda items had also been actively discussed during the Seattle Preparatory Process, many had looked upon a satisfactory resolution of the above issues as a crucial confidence test for WTO. These had also been intensively discussed during the informal meetings amongst WTO members during the last few months in Geneva. **It is a matter of some satisfaction that the GC was able to take some important decisions especially on**

**implementation on which it has been decided that the GC meeting in special sessions will address implementation concerns.** As for TRIMS, requests submitted by a number of developing countries for extension of transition periods are to be positively considered. Some of the developed countries, including the QUAD countries, have made certain offers for market access to LDCs although the latter have called it inadequate. On internal transparency, the Chairman has noted some progress made and has assured the members that further consultations will continue. Similarly, on capacity building, the Director General of WTO reported about the positive responses he had received for greater contributions to capacity building activities and assured the membership that he will be pursuing further consultations on this issue.

**Q. 6. What in your assessment are the significant gains for India from the WTO General Council Meeting held on May 3?**

**Ans : From our point of view, the most important was the decision relating to implementation. It was agreed that the General Council itself, meeting in special sessions, will address outstanding implementation issues and concerns including the issues raised by developing countries during the Seattle Preparatory Process. The first such special session is to be held by next month when it will draw up a programme and calendar for its work in the coming months. The whole process of addressing the implementation issues is to be completed not later than the 4th Session of the Ministerial Conference.** There is little doubt that it was possible to get this decision taken by General Council only due to the united stand put up by the Like Minded Group and a number of other developing countries in which our own Mission in Geneva played a very important role. Of course, the establishment of such a mechanism is only a beginning and needs to be effectively followed up if a meaningful resolution of the implementation issues has to be achieved.



# Monthly update from PMI\* / Geneva

( 15 April - 15 May, 2000)

## General Council

The General Council of the WTO met on the 3rd and 8th of May to finally take decisions on the **four issues** on which the Director General and the Chairman of the General Council had started consultations a few months ago as part of the post-Seattle confidence building package.

On the **first issue**, that is, measures in favour of **least developed countries (LDCs)**, Members took note of the package proposed by the QUAD countries to implement both tariff-free and quota-free treatment consistent with domestic requirements and international agreements, under their preferential scheme, on essentially all products originating in least developed countries. The General Council also noted the indications received from a few other Members, who had taken, or were intending to take, measures to improve the access of LDCs to their markets. However, Bangladesh speaking on behalf of the LDCs expressed disappointment on the QUAD package stating that till such preferences were non-conditional and did not exclude any products from LDCs, the benefits accruing to LDCs would only be marginal. Similarly, Morocco speaking on behalf of African group, while welcoming the initiatives also stated that it was too modest. In our intervention, we supported the concerns raised by the LDCs regarding the package and shared their assessment. We also recognised that this was a first step in what has been described as a dynamic process and we indicated a hope that over time the concerns of LDCs would be addressed in a meaningful manner by the developed countries.

On the **second issue**, that is, **capacity building through technical assistance**, Members took note, through a statement made by the Director General, of the progress made in this regard. It was generally felt that this issue was important to the developing country membership as a whole and to economies in transition, and that it was important to generate adequate resources for this purpose. The DG indicated that his consultations on an endeavour to increase the regular budget of technical assistance to a level of CHF 10 million, had generally been positive and that there were indications of voluntary contributions as well as multi year contributions. A number of countries supported this endeavour and endorsed the need for funding technical assistance through a regular budget.

On the **third issue**, that is, **implementation including transition periods**, it was agreed that the **General Council, meeting in Special Sessions, will address all outstanding implementation issues and concerns particularly those that have been raised during the preparation for the third session of the Ministerial Conference. It was also decided that the first Special Session would be held no later than June 2000 and that the process would be completed no later than the fourth Ministerial Conference.** The Chairman while introducing this decision also specifically stated that those implementation related issues and concerns which had been identified by Members as needing urgent action should be taken up in the first Special Session, in which a programme and calendar of work for the coming months could also be drawn up. **As for the transition period issues, the General Council directed the Council for Trade and Services to give positive consideration to individual requests presented in accordance with Article 5.3 for extending the transition period for implementation of the agreement. It was agreed that this examination would take into account the particular difficulties both internal and external encountered by developing countries in implementing the agreement as well as the development, financial and trade needs of the country in question.** It was also specifically noted that the multilateral character of the process will be preserved. The General Council also agreed that consultations on the means to address the concerns of those Members, who have not notified TRIMs or had not requested an extension shall also be pursued as a matter of priority. The Chairman of the Goods Council had been requested to keep the General Council informed of progress in this area.

On the **fourth and final issue relating to internal transparency**, it was agreed that while substantial progress had been in this direction, it was too premature to start taking specific decisions. It was accordingly agreed that the General Council would revert to this matter in its next meeting.

## Committee on Safeguards

The Committee on Safeguards met on 8th May, 2000. **Four of the India's Safeguard notifications concerning**

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\* *Permanent Mission of India*

**White/Yellow Phosphorous and Acetone were discussed.** Questions of facts were raised in the meeting concerning these notifications which were responded to and the matter was clarified to the satisfaction of the concerned Members. An important aspect raised in the meeting was concerning the MFN\* treatment in imposition of safeguard duties. This issue was raised against US in the context of exclusion of Canada and Mexico from the levy of safeguard duty on Line Pipe by US. It may be mentioned that Canada and Mexico are Members of NAFTA and, therefore, US has excluded them from the imposition of safeguard duty. Members argued that while US, on the one hand, has included the imports from these countries in evaluating serious injury caused to the domestic producers on the other hand, these imports have not been subjected to the levy of safeguard duty, which was not appropriate in their view. Members have reserved their right to revert to this issue in the next meeting.

Another important issue was relating to “**Unforeseen Development**”. In this context, it may be recalled that in the recent Panel Reports against Argentina and Korea, it has been held that Article XIX of GATT and Agreement of Safeguards have to be read harmoniously and the requirement of “Unforeseen Development” has to be kept in view in analysing the cause of increased imports. The issue was raised in the context of American notification as to how have they satisfied this requirement. The US, however, did not make any statement on this particular aspect.

## Committee on Anti-Dumping

**The Committee on Anti-Dumping met from 1-5 May , 2000.** During the period, meetings of the Ad hoc Group on Implementation and the Information Group on Circumvention were held. The main highlight of these meetings was the finalising of the guidelines concerning the periods of data collection for anti-dumping investigations, which had been under discussion for quite some time now. India was able to effect some of the modifications, which we had considered necessary. Extended focus on this draft meant that the other draft containing recommendations on matters to be included in the preliminary affirmative determinations could not be fully discussed. This draft will now be suitably revised incorporating the suggestions received and will be taken up at the next meeting.

The Ad hoc Group also discussed the various submission that had been made by different countries including India on the six identified topics. Among them the issues relating

to experience in applying Article 2.4.2 attracted maximum interest and discussion. While the preponderant practice appeared to be to use the weighted average to weighted average method while arriving at the dumping margins, principally because it is easier and also provides more certainty and transparency, there were a few countries like Egypt which indicated their preference for using the transaction by transaction comparison method. It was, however, felt that further discussions on national experiences were necessary to understand better the relative merits of these and other methods and in what circumstances each of them may be more appropriate.

The other topic which attracted a great deal of discussion related to national experiences regarding cumulation and how the conditions of competition were assessed before cumulation was decided upon. Japan was very particular that investigating authorities should give detailed explanation on why they chose to cumulate in any particular case and also submitted that mere inter-se competition between different exporters should not automatically lead to cumulation. On the other hand US, EU, Australia etc. took the position that the degree of analysis that Japan was suggesting in its paper almost amounted to an injury analysis before cumulation rather than the other way round. It was finally decided that the Secretariat would prepare a checklist of issues and the topic but this would not preclude delegates from making additional written contributions. Clearly, while there was considerable interest on the subject, discussions did not appear to have matured to a point where it could move to the stage of drafting recommendations.

## Transparency in Government Procurement

An informal meeting of the **Working Group on Transparency in Government Procurement** was held on 17 April, 2000 to discuss the work plan for the year 2000. **It was agreed to hold two meetings of the Working Group on 7-8 June, 2000 and 28-29 September, 2000.**

## Working party On GATS\*\* Rules

A meeting of the **Working Party on GATS Rules (WPGR)** was held on 4-5 May, 2000. The Working Party elected Mr. Tony Sims (United Kingdom) as its new Chairman for the year 2000, vice Mr. Siva Somasundram (Singapore). The WPGR continued its discussions on the negotiations of various aspects on emergency safeguards keeping in view the deadline of 15 December, 2000. The Chairman's informal note containing a list of issues involved and the ASEAN concept paper on the subject have helped the

\* **Most Favoured Nation**

\*\* **General Agreement on Trade in Services**

Members in keeping a focus on the important issues. The Working party agreed on a time table to make adequate progress till summer break. Accordingly, two informal meetings would be held on 22 May and 22 June before the formal one scheduled for 7 July, 2000. There had not been much of a progress in the other two issues being dealt with the Working Party, namely, negotiations on subsidies under GATS Article XV and negotiations on government procurement under GATS Article XIII.

## Dispute Settlement Body

On 25 April 2000, at the request of Korea, the Dispute Settlement Body (DSB established a panel under Article 21.5 of the Understanding on Rules and Procedures governing the Settlement of Disputes (DSU) to examine whether USA has implemented fully the DSB recommendations and rulings in US - Anti-Dumping Duty on Dynamic Random Access Memory Semiconductors (DRAMS) of one megabit or above from Korea. It may be recalled that Korea has successfully challenged USA's action of imposing anti-dumping duties on the Korean DRAMS before a WTO Panel. The DSB adopted the panel report on 19 March, 1999. Both Korea and USA agreed that the later would have eight months (upto 19 November, 1999) reasonable period of time (RPT) to amend its anti-dumping regulation to conform with the DSB rulings. USA had amended its regulation. However, Korea contests that the amended regulation as well as its implementation was not in conformity with DSB rulings. Hence, this request for the compliance panel under DSU. At the same meeting, as per the requirement under DSU, Canada expressed its intention to implement the DSB recommendations and rulings in the dispute: Canada - Patent Protection of Pharmaceutical Products. The panel report on this dispute was adopted by the DSB on 7 April, 2000.

## Agreement on Customs Valuation

At its meetings held on 28 April, 2000, the **WTO Committee on Customs Valuation** continued its deliberations on the requests of Members for extending the transition period for application of the Customs Valuation Agreement as well as requests for the use of minimum values. At this meeting, Nicaragua was granted use of minimum values until 3 September, 2002 for three products (used tyres, used clothing and used vehicles) and until 3 September, 2003 for sugar.

## Balance of payments consultations

At its meetings held on 4-5 May, 2000, the **WTO Committee on Balance of Payments Restrictions** held the first full consultations along with participation by the International Monetary Fund with Bangladesh.

**Bangladesh has been maintaining quantitative restrictions on imports for safeguarding its balance of payments under the special and differential provisions for developing country Members under Article XVIII:B of the GATT 1994.** In the simplified consultations that have been held periodically with Bangladesh, Members have found that these quantitative restrictions were justified. **At the full consultations, Members again sympathised with the difficulties faced by Bangladesh especially after the natural disasters experienced in the late 1990s and recognised that the balance of payments situation was fragile with reserves amounting to just over 2 months of imports. However, trade majors have insisted that Bangladesh should present a phase-out plan for the elimination of quantitative restrictions on imports. Bangladesh has agreed to present a plan for the approval of the Committee by the end of the year 2000, and the consultations will resume in year 2001.**

**The BOP Committee also held full consultations with Pakistan, especially to consider the phase-out plan presented by Pakistan in respect of the quantitative restrictions maintained by it under Article XVIII:B of GATT 1994.** Members recognised the fragile balance of payments situation faced by Pakistan with reserves of just over one-month of imports. Trade performance had also been lagging though cautious optimism was expressed over prospects for the external sector in light of its reforms agenda. **Pakistan has been asked by the Committee to present a full notification by June 2000 regarding the status of implementation of its phase-out plan, which ends in June 2002, as well as any other measures taken for balance of payments.** The Committee has agreed to resume its consultations with Pakistan in September, 2000.

## Trade Policy review of Bangladesh

The **Trade Policy Review Body** of the WTO conducted its first review of the trade policy regime of Bangladesh on 2nd and 4th May, 2000. The periodicity for review of Bangladesh is six years. Members discussed the economic liberalisation undertaken by Bangladesh since the mid-1980s covering the trade and exchange regime, financial and monetary sector, and the fiscal sector. Members appreciated the export diversification and import opening by Bangladesh but believed that much more required to be done. The supply-side constraints impeding growth of the external sector were also discussed. Bangladesh's lead role among the least developed country members was also appreciated and the difficulties faced by it in implementing fully its WTO commitments due partly to lack of know-how and institutional capacity were also recognised.

# WTO Issues : briefs & updates

## Safeguarding the agricultural sector

As part of the economic liberalisation programme and also in terms of our international obligations, import restrictions on various items are being removed. However, all imports into the country are subject to applicable rates of customs duties and also subject to domestic laws, rules, orders, regulations, technical specifications, environmental and safety norms as applicable to domestically produced goods. This should provide adequate protection to domestic farmers. India's tariff bindings at WTO for most of the agricultural items are fairly high and effective rates of customs duties can be raised to those levels, in case there is any evidence of substantial increase in imports. In the recent past, import duties on many of these agricultural items, (Chapter 1 to 24 of ITC HS Classification of Export and Import items), have been increased to provide further protection to domestic farmers. e.g., duty on rice has been increased upto 80%, on maize upto 50%, on apples upto 50%, on wheat upto 50%, on sugar upto 60% and on poultry products upto 100%. The imports are being closely monitored and government is determined to ensure through appropriate use of the tariff mechanism that imports do not cause any serious detriment or injury to the domestic farmers.

## Helping SSIs to become globally competitive

The government is aware of the emerging scenario for the SSI (Small Scale Industry) units and has taken several steps to help them become globally competitive. These include special focus on areas such as technology upgradation, infrastructure assistance through the cluster approach, timely availability of credit, adoption of modern management practices, use of electronic infrastructure, marketing and timely information dissemination, including sensitisation of small industries to the emerging challenges of trade liberalisation. The government also proposes to take following specific steps for helping the SSI units : (1) a scheme of credit guarantee is being launched shortly, for which a provision of Rs. 100 crore has been made in the

Budget for the year 2000-2001; (2) In the Union Budget 2000-2001, the operation of the special scheme called the Technology Development & Modernisation Fund of the Small Industries Development Bank of India (SIDBI), is proposed to be extended by another three years ; (3) The Ministry of Small Scale Industries and Rural Industries is planning to introduce a scheme of interest support to small scale entrepreneurs going in for technology upgradation and modernisation; and (4) In the amendments to the Export and Import Policy, announced on 31.3.2000, Export Promotion Capital Goods (EPCG) Scheme has been liberalised to include SSI sector, which now can import capital goods required for export production at the concessional duty rate of 5 per cent.

## WTO work programme on E-commerce

The World Trade Organisation (WTO) has established a work programme to examine all issues related to trade in global electronic commerce in the Council for Trade in Goods, Council for Trade in Intellectual Property Rights (IPRs), Council for Trade in Services and Committee for Trade & Development. India has actively participated in the discussions. India's concerns are with respect to issues relating to the developmental dimension of electronic commerce, applicability of existing WTO rules to electronic transmissions, domain names, jurisdiction and enforcement of IPRs etc. India would like the work programme to address these concerns. However, the discussions are still in initial stages and India will continue to seek support from other countries with a view to projecting and protecting our interests.

## Marketing rights under TRIPS

Indian Patent Office has received one application for grant of exclusive marketing rights (EMR) for the product titled "Pharmaceutical Compositions" stated to be useful for the treatment of diseases caused by retroviruses, filed by M/s F. Hoffmann La Roche AG, Basle, Switzerland. The above EMR application is under process. No EMR has yet been granted.



## Schedule of Meetings at the WTO, Geneva : June 2000\*

1&2/6/2000	: <b>Ascension</b> (WTO non-working day)
7/6/2000	: Dispute Settlement Body
7/6/2000	: Working Group on Transparency in Government Procurement
8/6/2000	: Working Group on the relationship between Trade and Investment
12/6/2000	: Whit Monday (WTO non-working day)
14/6/2000	: Committee of participants on the Expansion of Trade in Information Technology Products
14/6/2000	: Committee on Customs Valuation
14/6/2000	: Committee on Trade in Civil Aircraft
15-16/6/2000	: Working Group on the Interaction between Trade and Competition Policy
19/6/2000	: Dispute Settlement Body
19/6/2000	: Textiles Monitoring Body
21&22/6/2000	: Committee on Sanitary and Phytosanitary Measures
21/6/2000	: Trade Policy Review Body - Norway
21/6/2000	: Working Party on the Accession of Croatia
22/6/2000	: <b>General Council</b> Special Session on Implementation
23/6/2000	: Committee on Rules of Origin
23/6/2000	: Trade Policy Review Body - Norway
23/6/2000	: Working party on the Accession of China
26/6/2000	: <b>Council for Trade-Related aspects of Intellectual Property Rights</b>
27/6/2000	: Committee on Market Access
27-30/6/2000	: <b>Council for Trade-Related aspects of Intellectual Property Rights</b>
28/6/2000	: Committee on Agriculture
28/6/2000	: Committee on Trade and Development-29th Session
29-30/6/2000	: Committee on Agriculture - 2nd Special Session

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