

UNIT III: TRADE NEGOTIATIONS

LEARNING OUTCOMES

At the end of this unit, you will be able to:

- ❑ Distinguish between different types of regional trade agreements
- ❑ Outline the course of the history of trade negotiations
- ❑ Describe the structure and guiding principles of the WTO
- ❑ Give an overview of the WTO agreements
- ❑ List out the major concerns in respect of functioning of the WTO

UNIT OVERVIEW





3.1 INTRODUCTION

The recent years have seen intense bilateral and multilateral negotiations among different nations in the international arena. India, for example, has already become part of 19 such concluded agreements and is currently negotiating more than two dozens of such proposals. Major events in the year 2020, such as Britain's exit from the European Union, the new free trade agreement [which is a successor of the North American Free Trade Agreement (NAFTA)] concluded between Canada, Mexico, and United States, namely United States–Mexico–Canada Agreement (USMCA) and many other unpredictable developments in the trade front due to trade war between the US and China and the global pandemic, make trade negotiations a highly relevant area of study.

International trade negotiations, especially the ones aimed at formulation of international trade rules, are complex interactive processes involving different countries having competing objectives. Trade negotiations are not just face to face discussions; rather they are multilevel or network games and involve intricate and time-consuming processes. They usually involve many parties who have conflicting interests and objectives. National governments are not the sole stakeholders in a trade negotiation. Many interest groups, lobbying groups, pressure groups and Non-Governmental Organizations (NGO) exert their influence on the process. As anyone can guess, the positions taken by each of the negotiating parties would represent their underlying agenda of interests. For example, in trade negotiations, when one of the parties seems to be bargaining for market access through reduction in tariffs, the other (s) may be clamouring on the issue of possible grant of protection to domestic industries.

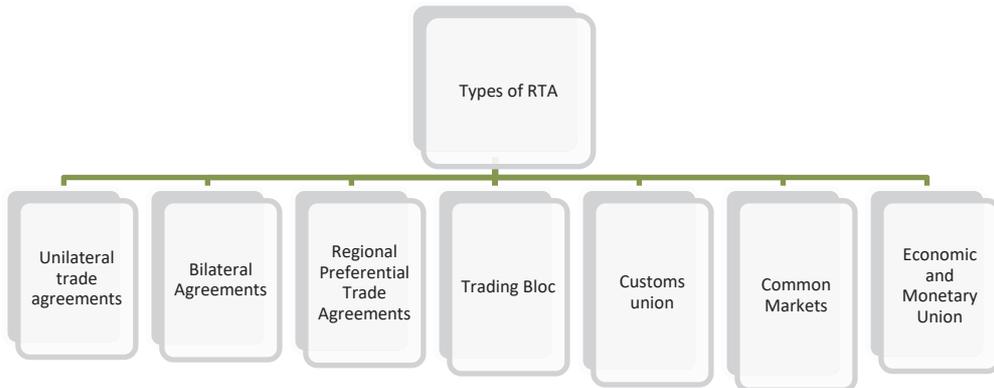
Before we go into the discussion on multilateral trade negotiations and the related institutions, it is relevant to understand the nature of regional as well as free trade agreements which evolve through negotiations.



3.2 TAXONOMY OF REGIONAL TRADE AGREEMENTS (RTAs)

Regional Trade Agreements (RTAs) are defined as groupings of countries (not necessarily belonging to the same geographical region), which are formed with the objective of reducing barriers to trade between member countries. In other words, a regional trade agreement (RTA) is a treaty between two or more governments that define the rules of trade for all signatories. As of 1 June 2020, 303 RTAs were in force.

Trade negotiations result in different types of agreements which are shown in the chart below-



1. **Unilateral trade agreements** under which an importing country offers trade incentives in order to encourage the exporting country, to engage in international economic activities that will improve the exporting country's economy. E.g. Generalized System of Preferences.
2. **Bilateral Agreements** are agreements which set rules of trade between two countries, two blocs or a bloc and a country. These may be limited to certain goods and services or certain types of market entry barriers. E.g. EU-South Africa Free Trade Agreement; ASEAN-India Free Trade Area.
3. **Regional Preferential Trade Agreements** among a group of countries reduce trade barriers on a reciprocal and preferential basis for only the members of the group. E.g. Global System of Trade Preferences among Developing Countries (GSTP)
4. **Trading Bloc** has a group of countries that have a free trade agreement between themselves and may apply a common external tariff to other countries. Example: Arab League (AL), European Free Trade Association (EFTA)
5. **Free-trade area** is a group of countries that eliminate all tariff and quota barriers on trade with the objective of increasing exchange of goods with each other. The trade among the member states flows tariff free, but the member states maintain their own distinct external tariff with respect to imports from the rest of the world. In other words, the members retain independence in determining their tariffs with non-members. Example: NAFTA.

6. **A customs union** is a group of countries that eliminate all tariffs on trade among themselves but maintain a common external tariff on trade with countries outside the union (thus, technically violating MFN). The common external tariff which distinguishes a customs union from a free trade area implies that, generally, the same tariff is charged wherever a member imports goods from outside the customs union. The EU is a Customs Union; its 27 member countries form a single territory for customs purposes. Other examples are Gulf Cooperation Council (GCC), Southern Common Market (MERCOSUR).
7. **Common Market:** A Common Market deepens a customs union by providing for the free flow of output and of factors of production (labour, capital and other productive resources) by reducing or eliminating internal tariffs on goods and by creating a common set of external tariffs. The member countries attempt to harmonize some institutional arrangements and commercial and financial laws and regulations among themselves. There are also common barriers against non-members (e.g., EU, ASEAN)
8. **Economic and Monetary Union:** For a common market, the free transit of goods and services through the borders increases the need for foreign exchange operations and results in higher financial and administrative expenses of firms operating within the region. The next stage in the integration sequence is formation of some form of monetary union. In an Economic and Monetary Union, the members share a common currency. Adoption of common currency also makes it necessary to have a strong convergence in macroeconomic policies. For example, the European Union countries implement and adopt a single currency.

There has been significant growth in international trade since the end of the Second World War, mostly due to multilateral trade system which is both a political process and a set of political institutions. It is a political process because it is based on negotiations and bargaining among sovereign governments based on which they arrive at rules governing trade between or among themselves. The political institutions that facilitate trade negotiations, and support international trade cooperation by providing the rules of the game have been the former General Agreements on Tariffs and Trade (GATT) and the World Trade Organization (WTO).



3.3 THE GENERAL AGREEMENT ON TARIFFS AND TRADE (GATT)

Despite wide ranging benefits, a number of countries hinder the free flow of international trade by imposing trade barriers. It was felt necessary that all countries embark on cooperative economic relations for establishing mutual self-interest. The General Agreement on Tariffs and Trade (GATT) provided the rules for much of world trade for 47 years, from 1948 to 1994; but it was only a multilateral instrument governing international trade or a provisional agreement along with the two full-fledged "Bretton Woods" institutions, the World Bank and the International Monetary Fund. The original intention to create an International Trade Organization (ITO) as a third institution to handle the trade side of international economic cooperation did not succeed for want of endorsement by some national legislatures, especially the US.

Eight rounds of multilateral negotiations known as "trade rounds" held under the auspices GATT resulted in substantial international trade liberalization. Though the GATT trade rounds in earlier years contemplated tariff reduction as their core issue, later on the Kennedy Round in the mid-sixties, and the Tokyo Round in the 1970s led to massive reductions in bilateral tariffs, establishment of negotiation rules and procedures on dispute resolution, dumping and licensing. The arrangements were informally referred to as 'codes' because they were not acknowledged by the full GATT membership. A number of codes were ultimately amended in the Uruguay Round and got converted into multilateral commitments accepted by all WTO members. The eighth, the Uruguay Round of 1986-94, was the last and most consequential of all rounds and culminated in the birth of WTO and a new set of agreements.

The GATT lost its relevance by 1980s because

- it was obsolete to the fast-evolving contemporary complex world trade scenario characterized by emerging globalisation
- international investments had expanded substantially
- intellectual property rights and trade in services were not covered by GATT
- world merchandise trade increased by leaps and bounds and was beyond its scope.
- the ambiguities in the multilateral system could be heavily exploited

- efforts at liberalizing agricultural trade were not successful
- there were inadequacies in institutional structure and dispute settlement system
- it was not a treaty and therefore terms of GATT were binding only insofar as they are not incoherent with a nation's domestic rules.



3.4 THE URUGUAY ROUND AND THE ESTABLISHMENT OF WTO

The need for a formal international organization which is more powerful and comprehensive was felt by many countries by late 1980s. Having settled the most ambitious negotiating agenda that covered virtually every outstanding trade policy issue, the Uruguay Round brought about the biggest reform of the world's trading system. Members established 15 groups to work on limiting restrictions in the areas of tariffs, non-tariff barriers, tropical products, natural resource products, textiles and clothing, agriculture, safeguards against sudden 'surges' in imports, subsidies, countervailing duties, trade related intellectual property restrictions, trade related investment restrictions, services and four other areas dealing with GATT itself, such as, the GATT system, dispute settlement procedures and implementation of the NTB Codes of the Tokyo Round, especially on anti-dumping.

The Round started in Punta del Este in Uruguay in September 1986 and was scheduled to be completed by December 1990. However, due to many differences and especially due to heated controversies over agriculture, no consensus was arrived at. Finally, in December 1993, the Uruguay Round, the eighth and the most ambitious and largest ever round of multilateral trade negotiations in which 123 countries participated, was completed after seven years of elaborate negotiations. The agreement was signed by most countries on April 15, 1994, and took effect on July 1, 1995. It also marked the birth of the World Trade Organization (WTO) which is the single institutional framework encompassing the GATT, as modified by the Uruguay Round.

3.5 THE WORLD TRADE ORGANIZATION (WTO)

The most important outcome of the Uruguay Round agreement was the replacement of the General Agreement on Tariffs and Trade (GATT) secretariat with the World Trade Organization (WTO) in Geneva with authority not only in trade in industrial products but also in agricultural products and services. The bulk of the WTO's present operations come from the 1986-94 negotiations called the Uruguay Round and earlier negotiations under the General Agreement on Tariffs and Trade (GATT). Despite the fact that the WTO replaced GATT as an international organization, the General Agreement still exists as the WTO's umbrella treaty for trade in goods, updated as a result of the Uruguay Round negotiations.

The principal objective of the WTO is to facilitate the flow of international trade smoothly, freely, fairly and predictably.

The WTO has six key objectives:

1. to set and enforce rules for international trade,
2. to provide a forum for negotiating and monitoring further trade liberalization,
3. to resolve trade disputes,
4. to increase the transparency of decision-making processes,
5. to cooperate with other major international economic institutions involved in global economic management, and
6. to help developing countries benefit fully from the global trading system.

The objectives of the WTO Agreements as acknowledged in the preamble of the Agreement creating the World Trade Organization, include "raising standards of living, ensuring full employment and a large and steadily growing volume of real income and effective demand, and expanding the production of and trade in goods and services". The WTO, whose primary purpose is to open trade for the benefit of all, does its functions by acting as a forum for trade negotiations among member governments, administering trade agreements, reviewing national trade policies, assisting developing countries in trade policy issues, through technical assistance and training programmes and cooperating with other international organizations

3.5.1 The Structure of the WTO

The WTO activities are supported by a Secretariat located in Geneva, headed by a Director General. It has a three-tier system of decision making. The WTO's top-level decision-making body is the Ministerial Conference which can take decisions on all matters under any of the multilateral trade agreements. The Ministerial Conference meets at least once every two years. The next level is the General Council which meets several times a year at the Geneva headquarters. The General Council also meets as the Trade Policy Review Body and the Dispute Settlement Body. At the next level, the Goods Council, Services Council and Intellectual Property (TRIPS) Council report to the General Council. These councils are responsible for overseeing the implementation of the WTO agreements in their respective areas of specialisation. The WTO Secretariat maintains working relations with almost 200 international organisations in activities ranging from statistics, research, standard-setting, and technical assistance and training. Numerous specialized committees, working groups and working parties deal with the individual agreements and other areas such as the environment, development, membership applications and regional trade agreements.

The WTO accounting for about 95% of world trade currently has 164 members, of which 117 are developing countries or separate customs territories. Around 24 others are negotiating membership. The WTO's agreements have been ratified in all members' parliaments.

3.5.2 The Guiding Principles of World Trade Organization (WTO)

Right from its inception, the WTO has been driven by a number of fundamental principles which are the foundations of the multilateral trading system. Following are the major guiding principles:

1. **Trade without discrimination:** Most-favoured-nation (MFN): Originally formulated as Article 1 of GATT, this principle states that any advantage, favour, privilege or immunity granted by any contracting party to any product originating in or destined for any other country shall be extended immediately and unconditionally to the like product originating in or destined for the territories of all other contracting parties. Under the WTO agreements, countries cannot normally discriminate between their trading partners. If a country lowers a trade barrier or opens up a market, it has to do so for the same goods or services from all other WTO members. Under strict conditions, various permitted exceptions are allowed. For example; countries may enter into free trade agreements and trading may be done

within the group discriminating against goods from outside; a country can raise barriers against products that are considered to be traded unfairly from specific countries; or they may give special market access to developing countries.

2. **The National Treatment Principle (NTP):** The National Treatment Principle is complementary to the MFN principle. GATT Article III requires that with respect to internal taxes, internal laws, etc. applied to imports, treatment not less favourable than that which is accorded to like domestic products must be accorded to all other members. In other words, a country should not discriminate between its own and foreign products, services or nationals. For instance, once imported apples reach Indian market, they cannot be discriminated against and should be treated at par in respect of marketing opportunities, product visibility or any other aspect with locally produced apples.
3. **Freer trade:** Lowering trade barriers for opening up markets is one of the most obvious means of encouraging trade. But by the 1980s, the negotiations had expanded to cover non-tariff barriers on goods, and to the new areas such as services and intellectual property. Since these require adjustments, the WTO agreements permit countries to bring in changes gradually, through "progressive liberalization". Developing countries are generally given longer time to conform to their obligations.
4. **Predictability:** Investments will be encouraged only if the business environment is stable and predictable. The foreign companies, investors and governments should be confident that the trade barriers will not be raised arbitrarily. This is achieved through 'binding' tariff rates, discouraging the use of quotas and other measures used to set limits on quantities of imports, establishing market-opening commitments and other measures to ensure transparency. A country can change its bindings, but only after negotiating with its trading partners, which could mean compensating them for loss of trade.
5. **Principle of general prohibition of quantitative restrictions:** One reason for this prohibition is that quantitative restrictions are considered to have a greater protective effect than tariff measures and are more likely to distort the free flow of trade
6. **Greater competitiveness:** This is to be achieved by discouraging "unfair" practices such as export subsidies, dumping etc. The rules try to establish

what is fair or unfair, and how governments can take action, especially by charging additional import duties intended to compensate for injury caused by unfair trade.

7. **Tariffs as legitimate measures for the protection of domestic industries:** The imposition of tariffs should be the only method of protection, and tariff rates for individual items should be gradually reduced through negotiations 'on a reciprocal and mutually advantageous' basis. Member countries bind themselves to maximum rates and the imposition of tariffs beyond such maximum rates (bound rates) or the unilateral raise in bound rates are banned.
8. **Transparency in Decision Making:** The WTO insists that any decision by members in the sphere of trade or in respect of matters affecting trade should be transparent and verifiable. Such changes in matters of trade or of trade related rules have to be invariably and without delay be notified to all the trading partners. In case of any opposition to such changes, they should be appropriately addressed and any loss occurring to the affected members should be suitably compensated for.
9. **Progressive Liberalization:** Many trade issues of a controversial nature similar to labour standards, non-agricultural market access, etc. on which there was general disagreement among trading partners were left unsettled during the Uruguay Round. These are to be liberalized during consecutive rounds of discussion.
10. **Market Access:** The WTO aims to increase world trade by enhancing market access by converting all non- tariff barriers into tariffs which are subject to country specific limits. Further, in major multilateral agreements like the Agreement on Agriculture (AOA), specific targets have been specified for ensuring market access.
11. **Special privileges to less developed countries:** With majority of WTO members being developing countries and countries in transition to market economies, the WTO deliberations favour less developed countries by giving them greater flexibility, special privileges and permission to phase out the transition period. Also, these countries are granted transition periods to make adjustments to the not so familiar and intricate WTO provisions.
12. **Protection of Health & Environment:** The WTO's agreements support measures to protect not only the environment but also human, animal as

well as plant health with the stipulation that such measures should be non-discriminatory and that members should not employ environmental protection measures as a means of disguising protectionist policies.

13. **A transparent, effective and verifiable dispute settlement mechanism:** Trade relations frequently involve conflicting interests. Any dispute arising out of violation of trade rules leading to infringement of rights under the agreements or misunderstanding arising as regards the interpretation of rules, are to be settled through consultation. In case of failures, the dispute can be referred to the WTO and can pursue a carefully mapped out, stage-by-stage procedure that includes the possibility of a judgment by a panel of experts, and the opportunity to appeal the ruling on legal grounds. The decisions of the dispute settlement body are final and binding.

3.5.3 Overview of the WTO agreements

The WTO agreements cover goods, services and intellectual property and the permitted exceptions. These agreements are often called the WTO's trade rules, and the WTO is often described as "rules-based", a system based on rules. (The rules are actually agreements that the governments negotiated).

The WTO agreements are voluminous and multifaceted. The 'Legal Texts' consist of a list of about 60 agreements, annexes, decisions and understandings covering a wide range of activities. (The list of WTO agreements is given at the end of this unit).

Following are the important agreements under WTO. Since a thorough discussion on the features of each agreement is beyond the scope of this unit, only the major provisions are given below:

1. Agreement on Agriculture aims at strengthening GATT disciplines and improving agricultural trade. It includes specific and binding commitments made by WTO Member governments in the three areas of market access, domestic support and export subsidies.
2. Agreement on the Application of Sanitary and Phytosanitary (SPS) Measures establishes multilateral frameworks for the planning, adoption and implementation of sanitary and phytosanitary measures to prevent such measures from being used for arbitrary or unjustifiable discrimination or for camouflaged restraint on international trade and to minimize their adverse effects on trade.

3. Agreement on Textiles and Clothing replaced the Multi-Fibre Arrangement (MFA) which was prevalent since 1974 and entailed import protection policies. ATC provides that textile trade should be deregulated by gradually integrating it into GATT disciplines over a 10-year transition period.
4. Agreement on Technical Barriers to Trade (TBT) aims to prevent standards and conformity assessment systems from becoming unnecessary trade barriers by securing their transparency and harmonization with international standards. Often excessive standards or misuse of standards in respect of manufactured goods, and safety/environment regulations act as trade barriers.
5. Agreement on Trade-Related Investment Measures (TRIMs) expands disciplines governing investment measures in relation to cross-border investments. It stipulates that countries receiving foreign investments shall not impose investment measures such as requirements, conditions and restrictions inconsistent with the provisions of the principle of national treatment and general elimination of quantitative restrictions. For example: measures such as local content requirements and trade balancing requirements should not be applied on investing corporations.
6. Anti-Dumping Agreement seeks to tighten and codify disciplines for calculating dumping margins and conducting dumping investigations, etc. in order to prevent anti-dumping measures from being abused or misused to protect domestic industries.
7. Customs Valuation Agreement specifies rules for more consistent and reliable customs valuation and aims to harmonize customs valuation systems on an international basis by eliminating arbitrary valuation systems.
8. Agreement on Pre-shipment Inspection (PSI) intends to secure transparency of pre-shipment inspection wherein a company designated by the importing country conducts inspection of the quality, volume, price, tariff classification, customs valuation, etc. of merchandise in the territory of the exporting country on behalf of the importing country's custom office and issues certificates. The agreement also provides for a mechanism for the solution of disputes between PSI agencies and exporters.
9. Agreement on Rules of Origin provides for the harmonization of rules of origin for application to all non-preferential commercial policy instruments. It also provides for dispute settlement procedures and creates the rules of origin committee.

10. Agreement on Import Licensing Procedures relates to simplification of administrative procedures and to ensure their fair operation so that import licensing procedures of different countries may not act as trade barriers.
11. Agreement on Subsidies and Countervailing Measures aims to clarify definitions of subsidies, strengthen disciplines by subsidy type and to strengthen and clarify procedures for adopting countervailing tariffs.
12. Agreement on Safeguards clarify disciplines for requirements and procedures for imposing safeguards and related measures which are emergency measures to restrict imports in the event of a sudden surge in imports.
13. General Agreement on Trade in Services (GATS): This agreement provides the general obligations regarding trade in services, such as most-favoured-nation treatment and transparency. In addition, it enumerates service sectors and stipulates that in the service sectors for which it has made commitments, a member country cannot maintain or introduce market access restriction measures and discriminatory measures that are severer than those that were committed during the negotiations.
14. Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS): This agreement stipulates most-favoured-nation treatment and national treatment for intellectual properties, such as copyright, trademarks, geographical indications, industrial designs, patents, IC layout designs and undisclosed information. In addition, it requires member countries to maintain high levels of intellectual property protection and to administer a system of enforcement of such rights. It also stipulates procedures for the settlement of disputes related to the agreement.
15. Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU) provides the common rules and procedures for the settlement of disputes related to the WTO agreements. It aims to strengthen dispute settlement procedures by prohibiting unilateral measures, establishing dispute settlement panels whose reports are automatically adopted, setting time frames for dispute settlement, establishing the Appellate Body etc. (for details of India's disputes at the WTO, refer box1 below)
16. Trade Policy Review Mechanism (TPRM) provides the procedures for the trade policy review mechanism to conduct periodical reviews of members'

trade policies and practices conducted by the Trade Policy Review Body (TPRB).

17. **Plurilateral Trade Agreements:** Multilateral negotiations are those negotiations involving the entire WTO contracting parties. The Plurilateral trade agreements involve several countries with a common interest but do not involve all WTO countries. Not all the plurilateral agreements are negotiated within the WTO framework. When started within the WTO context, these agreements may come from the failure to find agreement among the entire WTO contracting parties and therefore a smaller group of countries decide to conclude the agreement among them.
 - **Agreement on Trade in Civil Aircraft:** The Agreement on Trade in Civil Aircraft entered into force on 1 January 1980. It now has 32 signatories. The agreement eliminates import duties on all aircraft, other than military aircraft, as well as on all other products covered by the agreement.
 - **Agreement on Government Procurement:** The fundamental aim of the GPA is to mutually open government procurement markets among its parties. This agreement requires national treatment and non-discriminatory treatment in the area of government procurement and calls for fair and transparent procurement procedures. The agreement covers the procurement of services (in addition to goods) and the procurement by sub-central government entities and government-related agencies (in addition to central government).

All the above-mentioned agreements entered into by the members are not static; they are renegotiated from time to time and new agreements evolve from negotiations. Example: Many agreements were negotiated under the Doha Development Agenda, launched by WTO trade ministers in Doha, Qatar, in November 2001.

3.6 THE DOHA ROUND

The Doha Round, formally the Doha Development Agenda, which is the ninth round since the Second World War was officially launched at the WTO's Fourth Ministerial Conference in Doha, Qatar, in November 2001. The round seeks to accomplish major modifications of the international trading system through lower trade barriers and revised trade rules. The negotiations include 20 areas of trade, including agriculture, services trade, market access for non-agricultural products

(NAMA), trade in services, trade facilitation, environment, geographical indications and certain intellectual property issues. The most controversial topic in the Doha Agenda was agriculture trade.



3.7 25 YEARS OF THE WTO ACHIEVEMENTS AND CONCERNS

The WTO has helped transform international economic relations to a great extent over the past 25 years of its existence.

There has been spectacular growth in world trade in goods and services. Since 1995, the dollar value of world trade has increased nearly four-fold, while the real volume of world trade has expanded by 2.7 times. This is commendable as it outstrips the two-fold increase in world GDP over that period. The average tariffs have almost halved, from 10.5% to 6.4% during this period.

The remarkable increase in global value chains (GVCs) has been made possible by the predictable market conditions fostered by the WTO along with improved communication. Businesses, being assured of the possibility of movement of components and associated services across multiple locations, have been able to disaggregate manufacturing production across countries and regions. At present, trade within these value chains accounts for almost 70% of total merchandise trade.

The rise of global value chains has been a significant factor in enabling rapid catch-up growth in developing economies. Also, these have resulted in increased purchasing power and consumer choice in all countries. For the economies that joined the WTO after its creation, accession involved far-reaching reforms and market-opening commitments and research suggests that these have enabled a lasting boost to national income.

Over the past 25 years, there has been the fastest poverty reduction in history: in 1995, over one in three people living around the world fell below the World Bank's \$1.90 threshold for extreme poverty. Today the extreme poverty rate is less than 10%, the lowest ever.

However, in recent years, apprehensions have been raised in respect of the WTO and its ability to maintain and extend a system of liberal world trade. The major issues are:

- (i) The progress of multilateral negotiations on trade liberalization is very slow and the requirement of consensus among all members acts as a constraint and creates rigidity in the system. As a result, countries find regionalism as a plausible alternative. Moreover, contemporary trade barriers are much more complex and difficult to negotiate in a multilateral forum. Logically, these issues are much easier if discussed on bilateral or regional level.
- (ii) The complex network of regional agreements introduces uncertainties and murkiness in the global trade system.
- (iii) While multilateral efforts have effectively reduced tariffs on industrial goods, the achievement in liberalizing trade in agriculture, textiles, and apparel, and in many other areas of international commerce has been negligible.
- (iv) The negotiations, such as the Doha Development Round, have run into problems, and their definitive success is doubtful.
- (v) Most countries, particularly developing countries are dissatisfied with the WTO because, in practice, most of the promises of the Uruguay Round agreement to expand global trade has not materialized.
- (vi) The developing countries have raised a number of concerns and a few are presented here:
 - The developing countries contend that the real expansion of trade in the three key areas of agriculture, textiles and services has been dismal.
 - Protectionism and lack of willingness among developed countries to provide market access on a multilateral basis has driven many developing countries to seek regional alternatives.
 - The developing countries have raised a number of issues in the Doha Agenda in respect of the difficulties that they face in implementing the present agreements.
 - The North-South divide apparent in the WTO ministerial meets has fuelled the apprehension of developing countries about the prospect of trade expansion under the WTO regime.
 - Developing countries complain that they face exceptionally high tariffs on selected products in many markets and this obstructs their vital

exports. Examples are tariff peaks on textiles, clothing, and fish and fish products.

- Another major issue concerns 'tariff escalation' where an importing country protects its processing or manufacturing industry by setting lower duties on imports of raw materials and components, and higher duties on finished products.
- There is also possible erosion of preferences i.e. the special tariff concessions granted by developed countries on imports from certain developing countries have become less meaningful because of the narrowing of differences between the normal and preferential rates.
- The least-developed countries find themselves disproportionately disadvantaged and vulnerable with regard to adjustments due to lack of human as well as physical capital, poor infrastructure, inadequate institutions, political instabilities etc.
- In recent times, the World Trade Organization and the global trading system are facing serious challenges in terms of unilateral measures and counter measures by some members. Over the past two years, governments have introduced trade restrictions and protectionist actions covering a substantial amount of international trade, affecting \$747 billion in global imports in 2019 alone.
- The rising uncertainty about market conditions is causing businesses to postpone investment, weighing on growth and the future potential of our economies. Many areas of trade such as e-commerce are still outside the WTO.
- There are mounting trade tensions as some members do not adhere to the WTO's established procedures. The unilateral tariffs threatened by the U.S. and China are examples. Countries are using the permissible clause of 'national security' as a justification for tariffs.
- There is an ongoing stalemate in the appointment of members of the Appellate Body of WTO's dispute settlement mechanism. The appellate body is nearly paralyzed because it does not have the three panellists required to sign rulings.

A Summary of Agreements in the Final Act of the Uruguay Round

1. Agreement Establishing the WTO
2. General Agreement on Tariffs and Trade 1994
3. Uruguay Round Protocol GATT 1994
4. Agreement on Agriculture
5. Agreement on Sanitary and Phytosanitary Measures
6. Decision on Measures Concerning the Possible Negative Effects of the Reform Programme on Least-Developed and Net Food-Importing Developing Countries
7. Agreement on Textiles and Clothing (terminated on 1 January 2005)
8. Agreement on Technical Barriers to Trade
9. Agreement on Trade-Related Investment Measures
10. Agreement on Implementation of Article VI (Anti-dumping)
11. Agreement on Implementation of Article VII (Customs Valuation)
12. Agreement on Pre shipment Inspection
13. Agreement on Rules of Origin
14. Agreement on Import Licensing Procedures
15. Agreement on Subsidies and Countervailing Measures
16. Agreement on Safeguards
17. General Agreement on Trade in Services
18. Agreement on Trade-Related Aspects of Intellectual Property Rights, Including Trade in Counterfeit Goods
19. Understanding on Rules and Procedures Governing the Settlement of Disputes
20. Decision of Achieving Greater Coherence in Global Economic Policy-Making

Box 1: Details of India's disputes at WTO (as on 16.03.2020)

India currently has 15 disputes with other members of WTO (4 as Complainant and 11 as respondent)

A. Disputes where India is a Complaining party (4 cases)

- (i) DS436 (Countervailing duty by United States on Indian steel products)
Respondent- The United States
- (ii) DS-503(Measures by US concerning non-immigrant visas)
Respondent- The United States
- (iii) DS-510 (Sub-Federal Renewable energy programmes of US)
Respondent- The United States
- (iv) DS-547 (Certain measures by US on Steel and Aluminium products)
Respondent- The United States

B. WTO disputes where India is a Responding Party (11 cases)

- (v) DS-430: (Prohibition by India on Import of poultry and poultry products) Complainant – The United States
- (vi) DS-456 (India's Measures Relating to Solar Cells and Solar Modules under National Solar Mission dispute) Complainant – The United States
- (vii) DS-518 (India's safeguard measures on import of iron and steel products) Complainant – Japan
- (viii) DS-541 (India's Export Promotion Schemes)-Complainant-United States
- (ix-xi) DS579, DS580 and DS581 (India-Measures Concerning Sugar and Sugarcane)- Complainants- Brazil, Australia and Guatemala, respectively
- (xii-xiv) DS582 and DS584, DS588 (India-Tariff Treatment on Certain Good in the Information and Communications Technology Sector)- Complainants- EU, Japan and Taiwan, respectively
- (xv) DS-585 (Additional duties on certain products from US) - Complainant– The United States

Source; Government of India Ministry of Commerce & Industry

SUMMARY

- International trade negotiations, especially the ones aimed at formulation of international trade rules, are complex interactive processes engaged in by countries having competing objectives.
- Regional Trade Agreements (RTAs) are defined as groupings of countries (not necessarily belonging to the same geographical region) which are formed with the objective of reducing barriers to trade between member countries.
- Trade negotiations result in different types of agreements, namely: unilateral trade agreements, bilateral agreements, regional preferential trade agreements, trading bloc, free-trade area, customs union, common market and economic and monetary union.
- The General Agreement on Tariffs and Trade (GATT) provided the rules for most of the world trade for 47 years, from 1948 to 1994.
- Eight multilateral negotiations known as "trade rounds" held under the auspices GATT resulted in substantial international trade liberalization.
- The eighth of the Uruguay Round of 1986-94, was the last and most consequential of all rounds and culminated in the birth of WTO and a new set of agreements replacing the General Agreement on Tariffs and Trade (GATT).
- The principal objective of the WTO is to facilitate the flow of international trade smoothly, freely, fairly and predictably.
- The WTO does its functions by acting as a forum for trade negotiations among member governments, administering trade agreements, reviewing national trade policies, cooperating with other international organizations and assisting developing countries in trade policy issues through technical assistance and training programmes.
- The WTO activities are supported by the Secretariat located in Geneva, headed by a Director General. It has a three-tier system of decision making. The top-level decision-making body is the Ministerial Conference, followed by councils namely, the General Council and the Goods Council, Services Council and Intellectual Property (TRIPS) Council.

- The WTO, accounting for about 95% of world trade, currently has 164 members, of which 117 are developing countries or separate customs territories.
- The major guiding principles of the WTO are trade without discrimination, most-favoured-nation treatment(MFN), the national treatment principle (NTP), free trade, predictability, general prohibition of quantitative restrictions, greater competitiveness, tariffs as legitimate measures for protection, transparency in decision making, progressive liberalization, market access and a transparent, effective and verifiable dispute settlement mechanism.
- The important agreements under WTO are on agriculture, (SPS) measures, textiles and clothing, technical barriers to trade (TBT), trade-related investment measures (TRIMs), anti-dumping, customs valuation, pre-shipment inspection (PSI) , rules of origin, import licensing procedures, subsidies and countervailing measures , safeguards, trade in services (GATS), intellectual property rights (TRIPS), settlement of disputes (DSU), trade policy review mechanism (TPRM) and plurilateral trade agreements on trade in civil aircraft and government procurement.
- The Doha Round, formally the Doha Development Agenda, which is the ninth round since the Second World War was officially launched at the WTO's Fourth Ministerial Conference in Doha, Qatar, in November 2001.
- The major issues related to the WTO are in respect of slow progress of multilateral negotiations, uncertainties resulting from regional trade agreements, inadequate or negligible trade liberalisation, and those which are specific to the developing countries, namely, protectionism and lack of willingness among developed countries to provide market access, difficulties that they face in implementing the present agreements, apparent north-south divide, exceptionally high tariffs, tariff escalation, erosion of preferences and difficulties with regards to adjustments.

TEST YOUR KNOWLEDGE

I Multiple Choice Type Questions

1. Which of the following culminated in the establishment of the World Trade Organization?
 - (a) The Doha Round

- (b) The Tokyo Round
 - (c) The Uruguay Round
 - (d) The Kennedy Round
2. Choose the correct statement
- (a) The GATT was meant to prevent exploitation of poor countries by richer countries
 - (b) The GATT dealt with trade in goods only, while, the WTO covers services as well as intellectual property.
 - (c) All members of the World Trade Organization are required to avoid tariffs of all types
 - (d) All the above
3. The 'National treatment' principle stands for
- (a) the procedures within the WTO for resolving disagreements about trade policy among countries
 - (b) the principle that imported products are to be treated no worse in the domestic market than the local ones
 - (c) exported products are to be treated no worse in the domestic market than the local ones
 - (d) imported products should have the same tariff, no matter where they are imported from
4. 'Bound tariff' refers to
- (a) clubbing of tariffs of different commodities into one common measure
 - (b) the lower limit of the tariff below which a nation cannot be taxing its imports
 - (c) the upper limit on the tariff that a country can levy on a particular good, according to its commitments under the GATT and WTO.
 - (d) the limit within which the country's export duty should fall so that there are cheaper exports

5. The essence of 'MFN principle' is
 - (a) equality of treatment of all member countries of WTO in respect of matters related to trade
 - (b) favour one, country, you need to favour all in the same manner
 - (c) every WTO member will treat all its trading partners equally without any prejudice and discrimination
 - (d) all the above
6. The World Trade Organization (WTO)
 - (a) has now been replaced by the GATT
 - (b) has an inbuilt mechanism to settle disputes among members
 - (c) was established to ensure free and fair trade internationally.
 - (d) (b) and c) above
7. The Agreement on Agriculture includes explicit and binding commitments made by WTO Member governments
 - (a) on increasing agricultural productivity and rural development
 - (b) market access and agricultural credit support
 - (c) market access, domestic support and export subsidies
 - (d) market access, import subsidies and export subsidies
8. The Agreement on Textiles and Clothing
 - (a) provides that textile trade should be deregulated gradually and the tariffs should be increased
 - (b) replaced the Multi-Fiber Arrangement (MFA) which was prevalent since 1974
 - (c) granted rights of textile exporting countries to increase tariffs to protect their domestic textile industries
 - (d) stipulated that tariffs in all countries should be the same
9. The Agreement on Trade-Related Aspects of Intellectual Property Rights
 - (a) stipulates to administer a system of enforcement of intellectual property rights.

- (b) provides for most-favoured-nation treatment and national treatment for intellectual properties
 - (c) mandates to maintain high levels of intellectual property protection by all members
 - (d) all the above
10. The most controversial topic in the yet to conclude Doha Agenda is
- (a) trade in manufactured goods
 - (b) trade in intellectual property rights-based goods
 - (c) trade in agricultural goods
 - (d) market access to goods from developed countries
11. The WTO commitments
- (a) affect developed countries adversely because they have comparatively less agricultural goods
 - (b) affect developing countries more because they need to make radical adjustments
 - (c) affect both developed and developing countries equally
 - (d) affect none as they increase world trade and ensure prosperity to all

II Short Answer Type Questions

1. Define the term Regional Trade Agreements (RTAs). What is its major advantage?
2. What is meant by 'free trade area'?
3. What is the key feature of Monetary Union?
4. What are the peculiarities of the GATT?
5. What are the major functions of the WTO?
6. What do you understand by the term 'Most-favoured-nation' (MFN)?
7. What is meant by 'National Treatment Principle'?
8. How does the WTO agreement ensure market access?
9. Describe the functioning of the dispute settlement mechanism?

10. What is the major aim of the agreement on the 'Application of Sanitary and Phytosanitary (SPS) Measures'?
11. What purpose does the Agreement on Technical Barriers to Trade (TBT) serve?
12. What does the agreement on Trade-Related Investment Measures (TRIMs) stipulate?
13. What do you understand by agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)?

III Long Answer Type Questions

1. Distinguish between different types of regional trade agreements? How are they different from the WTO agreements?
2. Summarize the course of the history of trade negotiations. What are the major areas in which trade negotiations were undertaken?
3. Describe the structure and guiding principles of the World Trade Organization.
4. Give an overview of the WTO agreements.
5. List out the major concerns in respect of functioning of the WTO.
6. Do you agree with the statement that the WTO disproportionately benefits developed nations and impoverished developing nations?
7. What is the objective behind limiting protection by tariffs only? How does it promote international trade?

IV Applications Oriented Question

Case Scenario

India aims to become a global leader in solar energy and for achieving this, the Jawaharlal Nehru National Solar Mission (JNNSM) was launched in 2010. To persuade and to promote producers to participate in the national solar programme, the government planned long-term power purchase agreements with solar power producers, thus effectively guaranteeing the sale of the energy produced as well as the price that solar power producers would obtain. However, there was a stipulation that the producers should use domestically sourced inputs, namely solar cells and modules. India lost the case in DSB and WTO has

ruled against the stipulation of local content requirements by government of India.

Answer the following questions

- (i) How does the 'local content requirements' clause violate the WTO agreements?
- (ii) Do you think Indian domestic solar power industry will be affected when India scraps the local-sourcing regulation as per the ruling of WTO?

ANSWERS/HINTS

I Multiple Choice Type Questions

- | | | | | | | | | | | | |
|----|-----|----|-----|----|-----|-----|-----|-----|-----|----|-----|
| 1. | (c) | 2. | (b) | 3. | (b) | 4. | (c) | 5. | (d) | 6. | (d) |
| 7. | (c) | 8. | (b) | 9. | (d) | 10. | (c) | 11. | (b) | | |

II Short Answer Type Questions

1. Regional Trade Agreements (RTAs) are groupings of countries, which are formed with the objective of reducing barriers to trade between member countries; not necessarily belonging to the same geographical region. They reduce trade barriers on a reciprocal and preferential basis only for the members of the group.
2. Free-trade area is a group of countries that eliminate all tariff barriers on trade with each other and retains independence in determining their tariffs with non-members. Example: NAFTA
3. In a Monetary Union, members share a common currency and macroeconomic policies. For example, the euro zone countries implement and adopt a single currency.
4. General Agreement on Tariffs and Trade (GATT) (1948 to 1994) provided the rules for most of world trade; it was a multilateral instrument governing international trade or a provisional agreement along with the two full-fledged "Bretton Woods" institutions, the World Bank and the International Monetary Fund.
5. The principal objective of the WTO is to facilitate the flow of international trade smoothly, freely, fairly and predictably. The WTO does its functions by acting as a forum for trade negotiations among member governments, administering trade agreements, reviewing national trade policies, assisting

developing countries in trade policy issues, through technical assistance and training programmes and cooperating with other international organizations.

6. Under the WTO agreements, countries cannot normally discriminate between their trading partners. If a country lowers a trade barrier or opens up a market, it has to do so for the same goods or services from all other WTO members.
7. With respect to internal taxes, internal laws, etc. applied to imports, treatment not less favourable than that which is accorded to like domestic products, must be accorded to all other members; i.e. a country should not discriminate between its own and foreign products, services or nationals.
8. The WTO aims to increase world trade by enhancing market access by converting all non- tariff barriers into tariffs which are subject to country specific limits. Further, in major multilateral agreements like the Agreement on Agriculture (AOA), specific targets have been specified for ensuring market access.
9. The disputes can be referred to the WTO and can pursue a carefully mapped out, stage-by-stage procedure that includes the possibility of a judgment by a panel of experts, and the opportunity to appeal the ruling on legal grounds. The decisions of the dispute settlement body are final and binding.
10. To prevent sanitary and phytosanitary measures from being used for arbitrary or unjustifiable discrimination or for camouflaged restraint on international trade and to minimize their adverse effects on trade.
11. Agreement on Technical Barriers to Trade (TBT) aims to prevent standards and conformity assessment systems from becoming unnecessary trade barriers by securing their transparency and harmonization with international standards.
12. Establishes disciplines governing investment measures in relation to cross-border investments by stipulating that countries receiving foreign investments shall not impose investment measures such as requirements, conditions and restrictions inconsistent with the provisions of the principle of national treatment and general elimination of quantitative restrictions.
13. This agreement stipulates most-favoured-nation treatment and national treatment for intellectual properties.

III Hints to Long Answer Type Questions

- I. The length of the answer should relate to the marks allotted.
- II. The answer should be structured in three parts in the following style.
 - (a) Explain the economic fundamentals underlying the action/issue by integrating the course material in innovative ways; not necessarily confined to one unit. This part provides an opportunity for students to explain their understanding of the underlying theory. The examiner may easily discern the level of cognition of the student. This should be a compulsory component with a reasonably high proportion of marks earmarked.
 - (b) Analyse the issue at hand (given the framework and tools) and explain the policy position by applying the fundamentals as explained in (a) above.
 - (c) Substantiate with illustrations from current economic scenario

IV Application Oriented Questions

- (i) Local-sourcing regulation is considered as a protectionist measure inconsistent with India's international obligations under WTO agreement. Discrimination on the basis of the national 'origin' of the cells and modules is a violation of its trade commitment for 'national treatment obligation' under WTO. If the objective is cost reduction and efficiency, then the solar power producers should be free to choose energy-generation equipment and components on the basis of price and quality, irrespective of whether they are manufactured locally or not. By mandatorily requiring solar power producers to buy locally, the government has, it is argued, tried to distort competition. This imposes extra cost, and may possibly be passed on to the final consumers. Therefore, the interests of the consumers will not be protected.
- (ii) The market forces would prevail in respect of solar energy production. The import competing domestic industry of solar panels and modules may face stiff competition from imported items, especially those from China. Indian solar industry is in its infancy. Possibility of subsidized imports and dumping from different countries. India can evoke anti-dumping duties, countervailing duties and safe guards as provided for in WTO agreements. Need for innovation, cost reduction and quality improvement of Indian solar industry to compete with global manufacturers. Since clean energy is a merit good, government may produce and supply it directly - economies of large-scale production can be reaped leading to cost and price reduction.