

India & The WTO

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MARAN ALLAYS FEARS ON QRs REMOVAL



‘Even after removal of quantitative restrictions (QRs) all imports in the country are subject to the applicable rates of customs duties and subject to provision of all other domestic laws, rules, orders etc. This should provide adequate protection to the domestic producers. However, the government is constantly monitoring the imports and is absolutely determined to ensure through the appropriate use of tariff and other mechanisms that the imports do not cause any serious detriment or injury to the domestic producers including SSI sector. Towards that end, the government has increased the customs duty on a number of items, where a surge in imports,

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Basic Customs Duty on certain agricultural products raised subsequent to Budget 2000-2001

Description of goods	Basic duty of customs (before increase)	Basic duty of customs (after increase)
Edible grade crude vegetable oils (excluding coconut oil, palm oil and its fractions whether refined or not) imported in loose or bulk form for the manufacture of vanaspati or for refining.	15%	25%
Olive oil other than virgin whether or not refined.	35%	40%
Refined vegetable oils (other than coconut oil, RBD palm oil, RBD palm kernel oil and palm stearin) of edible grade in loose or bulk form.	25%	35%
All other edible oils whether refined or not (including coconut oil and refined palm oil)	35%	45%
Milk Powder	0%	60%
Poultry meat and chicken legs	35%	100%
Spelt	0%	50%
Rice in the husk and husked brown rice	0%	80%
Semi-milled or wholly milled rice whether or not polished	0%	70%
Millet, Jowar, Sorghum, Maize	0%	50%
Arecanuts	35%	100%
Apples	35%	50%
Tea	15%	35%
Coffee	15%	35%
Preparations for infant use, put up for retail sale	15%	35%

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was noticed or apprehended. For example, the duty on arecanut has been raised to 100 per cent, on poultry products to 100 per cent, on wheat to 50 per cent, on skimmed milk powder to 60 per cent, on apple to 50 per cent, on rice to 80 per cent, on coconut to 35 per cent and on coconut oil to 45 per cent. **The government has also constituted an Inter-Ministerial Group under the chairmanship of Commerce Secretary to study the impact of QR removal.** Besides, a Group of Ministers has been entrusted with the task of suggesting ways and means of strengthening the SSI sector...

Based on the representations received and the need for providing protection to domestic producers, **import duty on some agricultural commodities has been raised recently.** In the Budget proposals for the year 2000-2001, the basic customs duty on most of the agricultural products was raised to the peak rate of 35 per cent. **During this financial year customs duty on some agricultural products for example, milk**

power, poultry products, apples, edible oils, arecanut, spelt, millet, maize, jowar etc., has been raised even beyond the peak rate of the duty.

India has been following a consistent policy for gradual removal of restrictions on imports since 1991. Tariff line-wise import policy was first announced on 31/3/1996. As on that date, import of 6161 tariff lines (at 10-digit level) out of the total number of 10202 was free. Import restrictions on 488 tariff lines were removed during the period 1/4/96 to 31/3/97. Further 391 tariff lines (at 8 digit level) were freed during the period 1/4/97 to 13/4/98 and 894 tariff lines (at 8-digit level) were freed on 1/4/1999. **Thus removal of import restrictions on 714 tariff lines as carried out on 31/3/2000 was nothing but the continuation of the stated policy of the government over the years .?**

(Excerpted from replies given by Mr. Murasoli Maran, Union Minister of Commerce & Industry, in the Rajya Sabha on 21 August, 2000)



Post - QR scenario — Farmers' interests to be safeguarded

India is a signatory to WTO Agreement on Agriculture and General Agreement on Trade and Tariffs. The Agreement on Agriculture seeks to convert all non-tariff barriers, such as quantitative restrictions (QRs), into tariffs. Imports are to be regulated only through tariffs. However, countries are free to apply tariffs within the bound level. In the case of India, tariffs for primary agricultural products, processed agricultural products and edible oils have been bound at 100%, 150% and 300% respectively except for a few items which had been bound at lower level in the earlier negotiations. **Bound level of duties of some of these items, where the earlier bound level of duties was considered inadequate, were got raised under Article XXVIII negotiations by giving concessions in some other items, to provide the necessary protection to the farmers and the domestic industry.** None of the WTO Agreements has put any restrictions on the marketing of domestic agricultural products.

Consequent to a ruling of the Dispute Settlement Body of the WTO, which held that India was no longer justified in maintaining QRs on Balance of Payments grounds, India is in the process of phasing out QRs on imports which it was maintaining earlier under the Balance of Payments considerations and the balance of QRs are to be removed by 1/4/2001. **However, the import of agricultural items is being suitably regulated by imposing appropriate tariffs within the bound tariffs so as to provide adequate protection to the farmers and domestic industry.**

Murasoli Maran - 21 August, 2000

Text

Electronic - commerce in WTO

Genesis of E-commerce in World Trade Organisation

Recognising that Global Electronic Commerce is growing and creating new opportunities for trade, Trade Ministers at the Second Ministerial Conference of WTO, Geneva (17-20 May, 1998), adopted a Declaration to commence a work programme on the subject in the General Council of WTO, for making recommendations to the next Ministerial Conference. In the meanwhile, **it was decided to continue with the current practice of not imposing customs duty on electronic transmissions**, a decision which was also to be reviewed at the Third Ministerial Conference. The **work programme** involving the relevant WTO bodies was to take into account "the economic, financial and development needs of developing countries", and also the work being undertaken in other international fora on this subject. Commerce & Industry Minister, in his statement at WTO, emphasised that a standstill on export duties on electronic transmission should be precursor to a more dynamic regime of technology flows and free movement of professionals and technicians in this field. The Geneva Declaration has formed the basis of zero duty on electronic commerce from May 1998 to December, 1999. The Third Ministerial Conference of WTO at Seattle could not review the work programme relating to e-commerce. Thereafter, no decision has yet been taken on the issue of extending the period of zero duty on e-commerce.

Work Programme related to E-commerce and deliberations in various bodies of WTO

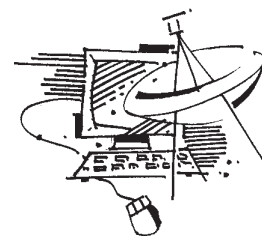
A process is underway in the General Council of WTO to discuss and deliberate on the various multilateral trade issues raised by Members. The objective of the process is to make recommendations on these issues. While it is the generally held view that goods ordered electronically but delivered physically would continue to attract the existing disciplines of WTO, unresolved issues remain in cases of electronic delivery of goods and services. Some of these issues are being discussed in the various bodies of the WTO including in the Council for Trade in Services, Council for Trade in Goods, TRIPS Council and Committee for Trade & Development. The deliberations have centered around the following issues:

- **Characterisation:** How should electronic transmissions be characterised i.e., are such transmissions, goods, or services or something else? Can legal disciplines of GATT be applied to digitised contents delivered through electronic means, in as far as these contents could be characterised as goods?
- **Market access related to e-commerce:** Whether conduct of trade by electronic means would change the obligations laid down in the tariff bindings contained in schedules of member

countries. How should customs duties be applied to electronic transmissions ?

- **Classification:** How should digitalised products be classified and the extent to which harmonised system (HS) of classification could be applicable to such products?
- **Rules of Origin:** To what extent would rules of origin be applicable to an electronic commerce setting as sophisticated technology allowing for easy duplication and unlimited routing of digitalised data made it difficult to find out where a transmission actually originated?
- **Standardisation relating to e-commerce:** The current expansion of electronic commerce was based on the freedom of transactions and standards needed to be developed to promote electronic commerce and not to prevent such a development. Should WTO aim at developing general disciplines and principles apart from setting specific standards for electronic commerce ?
- **Copyright and related rights:** A number of issues arise out of electronic commerce in connection with copyright and related rights, in the light of changes that digital networks have brought to the way that works and other protected materials are created, produced, distributed and used. These include implications for definition of publication, right of reproduction, right of communication, moral rights, right holder, protected subject matter, limitations and collective management. Where would these be addressed?
- **Scope of GATS with respect to electronic delivery of service:** Would electronic delivery of services fall within the scope of General Agreement on Trade in Services (GATS) since the agreement applies to all services regardless of the means by which they are delivered? If GATS discipline is applied to electronic delivery of services what implications does it have on the previous commitments undertaken in respect of the different services sectors? Are MFN obligations applicable to the supply of services through electronic means?
- **Development dimension of e-commerce:** The importance of taking into account revenue and fiscal implications of electronic commerce for developing countries and the importance of developing human resources and critical infrastructure in this regard.
- **Zero duty on electronic transmission:** There are proposals that the zero duty on e-commerce be extended for an indefinite period. In case coming few years witness a substantial growth in digitised delivery of goods and services, would this not lead to foreclosing of options for revenue likely to accrue in future?
- **Future work in WTO:** Should further work on electronic commerce in the WTO be carried on as at present in the respective subsidiary bodies or should there be a horizontal group devoted solely to electronic commerce?

This note has been put up on the Department of Commerce - NIC web site. Department of Commerce would be happy to receive comments and suggestions on the issues highlighted, which may be e-mailed to the following address:
E-mail: asen@ub.delhi.nic.in



Status regarding Information Technology Agreement (ITA-II)

Background on Information Technology Agreement

During the Singapore Ministerial Conference of the WTO, a proposal for the expansion of world trade in information technology products was adopted vide the **"Ministerial Declaration on Trade in Information Technology Products"** dated 13th December 1996. The declaration was adopted by 14 parties including the QUAD countries (USA, Canada, Japan & EU), Singapore and Hong Kong representing about 80% of the trade in these products. The Agreement became effective once the number of countries joining the Agreement represent 90% of the trade in information technology products. Other WTO Members could opt to join the Agreement as a participant.

The Information Technology Agreement (ITA), a plurilateral agreement within the WTO, aims to expand world trade in information technology products considering the key role this trade plays in development of information based industries and the dynamic expansion of the world economy while recognising the goal of raising the standards of living and expanding the production of and trade in goods. ITA also desires to achieve maximum freedom of trade in information technology products and to encourage continued technological development of the information technology industry on worldwide basis. **The objective of the Agreement is to bring down tariffs on IT items in stages to zero level by a specified year.** The concessions evolving out of the negotiations would be in addition to those already agreed upon under the GATT.

India joined the ITA on 25th March 1997. The main features of our schedule for ITA products are:

- We have, in all, bound 217 lines (including expositions)
- Out of these 217 lines, 95 lines have been reduced to zero level by 2000 and

- 4 lines in 2003, 2 lines in 2004 and 116 lines in 2005 would be reduced to zero level.

India's schedule for ITA products is available at the following address:

http://www.wto.org/english/tratop_e/inftec_e/indi-ab.pdf

http://www.wto.org/english/tratop_e/inftec_e/indi-r2m.pdf

http://www.wto.org/english/tratop_e/inftec_e/india-r2.pdf

ITA - II

Keeping in view the importance of information technology in international trade, fourteen participants submitted proposals on expansion of trade in IT products (referred to as ITA-II). These proposals were discussed extensively in various meetings of the WTO during April-June 1998 and subsequently. **The updated list of products proposed to be covered under ITA-II includes a few consumer electronic items and certain security related products which is one of the main reasons why it has not been possible for the members of ITA to come to a consensus yet.**

Issues to be considered

- To what extent would ITA-II enhance market access for our IT products in third country markets?
- To what extent would further liberalisation of trade in this sector, as envisaged under the proposed ITA-II, help in expansion of IT hardware and software industry in India?
- To what extent is the product coverage, as envisaged under proposed ITA-II, relevant for the development of IT sector in India?
- What should be our response to ITA-II?

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Glossary on E-commerce & ITA



E-commerce Technologies: Technology and electronic commerce work together. The chief technologies are Electronic Data Interchange (EDI), Bar Code, Electronic Mail, Internet, World Wide Web, Product Information exchange, Electronic Forms etc.

Electronic Commerce: Economic activity connected to production, advertising, sale or delivery of goods and services via telecommunication networks. The focus is on commerce over the internet. Commerce on the Net can be in the form of information access, shopping services, inter-personal communication and virtual enterprises.

GII: Global Information Infrastructure-- This is the backbone of the global network system which connects individual computers to the main network. Essentially, GII includes hardware and software elements comprising mainly optic fibre cable, telecommunications, satellite linkage, computers and related software products.

ITA: Information Technology Agreement -- At the Singapore Ministerial Conference in December 1996, 28 members accounting for more than 80 per cent of global trade in IT products agreed to sign a plurilateral agreement to phase out tariffs on IT products completely by 2000. The ITA covers six main categories of products: computers, including printers, scanners, monitors, hard -disk drives, power supplies, telecom products including telephone sets, fax machines, modem, pagers etc., semi-conductors, semi-conductor manufacturing equipment, scientific instruments and software. India is one of the signatories to the ITA.

UNCITRAL Model Code on Electronic Commerce: This establishes guidelines for framing rules and norms that validate and recognise contracts formed through electronic means, set default rules for contract formation and governance of electronic contract performances.

US proposal on Electronic Transmission: The US made a proposal at the WTO* to declare the electronic medium as a zero-tariff medium. The proposal was based on two points -- one, currently no country levies customs duty on electronic transmissions and two, electronic transmissions are not classified under the HS Code. The proposal was temporarily accepted for a period of one year.

Wish list: List of IT products provided by a signatory to the IT Agreement to the WTO for staging tariff cuts in four equal rate reductions in four stages (each 25%) for complete elimination of tariffs by no later than 1 January 2000.** The wish list comprises products under five categories-- computers, telecom products, semiconductors and manufacturing equipment, software and scientific instruments.

Zero-tariffication: Gradual phasing out of tariffs to zero, as in the case of the Agreement on Information Technology Products.

(Source: WTO Defined – By Bibek Debroy & P.D. Kaushik - a publication of CII & Rajiv Gandhi Foundation)

* At the Geneva Ministerial Conference in May, 1998

** Participants have agreed to an extended staging of tariff cuts for India on some of the products.

Monthly update from PMI*/Geneva (From 15 July to 15 August 2000)

General Council

The General Council (GC) met on the 17th and 20th of July to consider a number of pending issues including the matter relating to the setting up of an international trade centre under the joint auspices of UNCTAD and the WTO; request for observership status by the Bahamas (which was agreed to) and Liberia (which was deferred); the setting up of a working party for the accession of Cape Verde and Yemen; and the adoption of the reports of the working party on the accession of Albania and Croatia. The General Council took up for consideration the reports of the Budget Committee and the reports of the Committee on Balance of Payment Restrictions and also continued its review of Jone's Act, consultations on which are to continue after the summer break.

The General Council agreed to continue the work programme on electronic commerce without prejudice to Members' views on the status of the 1998 Declaration and also without prejudice to any Members' rights and obligations. It has been agreed to invite the four subsidiary bodies (the three Councils and the Committee on Trade and Development) to continue this work and to identify cross-sectoral issues and report to the General Council by its December 2000 meeting.

The GC also took up the issue of internal transparency and though the Chairman did state that it was his impression that Members generally did not see the need for any major institutional reform to its existing decision-making process, Members particularly the smaller delegations were still somewhat sceptical of the smaller group consultations that the Chairman proposed, as a compliment to the open-ended consultation process and, therefore, consultations are to continue in this regard.

The issue of expediting de-restriction of documents, Members from non-English speaking countries stated that while de-restriction was a laudable objective, documents should be derestricted only after they had been translated into all three languages. India also supported these concerns while continuing to hold that the present system was working satisfactorily.

Finally, before concluding the meeting, the General Council also took note of the reports made by the Chairman of the Committee on Agriculture and the Chairman of the Council for Trade in Services, who gave a brief resume of the progress made in the ongoing negotiations in Agriculture and Services.

Dispute Settlement Body

At the request of the US, Dispute Settlement Body (DSB) established a panel on 27 July 2000 to examine the dispute between India and the US on India's trade and investment measures in motor vehicles sector. In our statement, we regretted the US action of seeking for establishment of a panel despite furnishing of answers and clarifications to their questions. If there were still doubts, they should have sought for a further round of consultations to clarify the matters. Instead, they chose to take this step of seeking a panel. We pointed out that in view of ongoing review of extension of time-periods for compliance with TRIMS Agreement by the developing countries, the US request was unfortunate. It would send wrong signals to the developing countries. **Moreover, this move would undermine the respect for the General Council's decision as well as its Chairman's statement calling upon Members to exercise due restraint on transitional period issues including those under TRIMS Agreement.**

At the same DSB meeting, we presented a status report of compliance with the recommendations and rulings of DSB on *India-QRs* case. The US, the other party to that dispute, acknowledged our compliance as per the bilateral agreement with them. Similarly, Turkey presented a status report on *Turkey-Textiles* case. It sought for consultations not only between India and Turkey but also with EC, with which it was seeking membership, in order to comply with the DSB rulings.

We made a statement on *US-Copyright Act* about the way the Panel in that case sought to accept amicus curiae brief sent by a private law firm representing a business firm, which was directly interested in the

* Permanent Mission of India

outcome of the dispute. We pointed out that acceptance of such briefs was distorting the rights and obligations of the Member governments vis-à-vis non-governmental bodies. We called upon the Chairman to hold consultations on this matter to draw guidelines for future. Our view was supported by Australia, Malaysia and Mexico.

Working party on Accession of the People's Republic of China to the WTO

The Working Party met during the period 17-27 July 2000 to consider in detail the draft Protocol of Accession of China, the draft Working Party Report and the associated Annexes, which set out the terms and conditions of China's accession to the WTO under Article XII of the WTO Agreement. Positions were narrowed significantly on some points, with emerging consensus on some other important points of the draft Protocol. The first comprehensive read-through of the draft Working Party Report was helpful, though it was agreed that many issues remain to be tackled. The Working Party will now meet in intensive sessions over 13-29 September 2000 in order to make substantial progress towards finalising the negotiating package on China's accession to the WTO.

Committee on Rules of Origin

The Committee met on 17-18 July 2000 in order to finalise its work programme for the second half of 2000, and to discuss the deadline for completion of the ongoing work programme on harmonisation of non-preferential rules of origin. Two sessions of the

Committee spanning two weeks each are scheduled for the second half of 2000. During 18-29 September 2000, product specific rules in textiles and clothing sectors and overall architecture will be the focus of discussions. Areas for discussion in the November session will be finalised in September. The Committee will also continue its consultation on the deadline for the harmonisation work programme, including on the proposal by India.

Electronic Commerce

The **General Council at its meeting held on 17 July 2000 directed the four subsidiary bodies**, the Councils for Trade in Goods and Services, the TRIPS Council and the Committee on Trade and Development, to **resume their work under the Work Programme on Global Electronic Commerce**. These bodies had last submitted their reports to the General Council in July 1999. The General Council has directed these bodies to submit progress reports by December 2000. In the meanwhile, the General Council will hold informal consultations on its own organisation of work in this area.

Committee on Customs Valuation

In a brief meeting held on 21 July 2000, the Committee agreed to grant an extension to Egypt by one year until June 2001, to Cote d'Ivoire until 1 July 2001 and to Guatemala until 31 July 2001 for delayed application of the Customs Valuation Agreement. It was also agreed to grant the reservation to Guatemala to continue to apply minimum values in respect of a small list of products.



China, India and the WTO — What the future holds ?

1. China's entry into the WTO would improve bilateral trade relations between the two countries. This was stated by H E Mr Zhou Gang, Ambassador of the People's Republic of China to India, at a Seminar on "India, China and the WTO-What does the future hold," organised by Confederation of Indian Industries (CII) in New Delhi on 11 August, 2000. The Ambassador said that keeping in pace with the trend of economic globalisation, China would hold firmly to its reform and open door policy and adapt itself to the new trends of international economic co-operation and competition. He said that, ever since 1993, China had time and again reduced its customs and tariffs and amended its relevant laws and regulations so as to make them compatible with the WTO rules. **Mr. Zhou Gang said that, after joining the WTO, China would be confronted with a number of difficulties and challenges especially in the industry sector due to poor technology and management ability. He stated that it would require a lot of effort on China's part to implement the WTO rules and much more time to train the professionals. The Chinese Ambassador said that, confronted with the challenges of economic globalisation, both China and India share extensive common interest and wide scope for co-operation. He was confident that China's entry into the WTO would definitely improve bilateral trade relations between the two countries.** The Ambassador thanked the Indian government for extending its support to China for its entry into the WTO at an early date.
2. Dr. Bibek Debroy, Director, Rajiv Gandhi Foundation, welcomed China's prospective entry into the WTO in

the near future but said that China's negotiations with the member countries may take a little more time than anticipated. Dr. Debroy said that from India's perspective, there were two major concerns regarding China's entry to WTO. The first being the Chinese pricing policy. Due to greater production volumes, non-transparent pricing policies and enormous cost subsidisation, China overtakes the international market and also the Indian market. So the threat that India faces is not really from the West but from China. And the second, the fact that China had always had the advantage of being in a better negotiating position than India. Dr. Debroy said that India should try to forge a negotiating alliance with China.

Mr. R. Seshasayee, Chairman CII International Trade and WTO Committee, welcomed China's entry into the WTO and said that CII looked forward to working closely with its Chinese counterparts. He said that India and China together had a great role to play in promoting multilateralism and developing common viewpoints wherever possible. Mr. Seshasayee said that there was a need to set up a regular dialogue between the two countries especially in the field of intellectual property rights and protection, bio-diversity resources, bio-technology, geographical indications, agriculture, trade related investment measures, environment, labour standards, trade in services, non-tariff barriers, technical standards etc. Earlier, in his welcome address, Mr. Subodh Bhargawa, past President CII and Advisor, Eicher Group, highlighted the areas of co-operation between China and India especially in the fields of information technology, development of service industries, science and technology, research and development, bio-technology, drugs and pharmaceutical, metallurgical industry, agriculture, energy etc.

(Source: CII)



Schedule of Meetings at the WTO Geneva, September, 2000 *

11/9/2000	:	Dispute Settlement Body
13&15/9/2000	:	Textiles Monitoring Body
18/9/2000	:	Committee on Balance of Payments- Slovak Republic and Romania
19/9/2000	:	Committee on Trade-Related Investment Measures
20/9/2000	:	Working Party on State Trading Enterprises
21&22/9/2000	:	COUNCIL FOR TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS
22/9/2000	:	Thirtieth Session of the Committee on Trade and Development
22/9/2000	:	Working Group on Non-Governmental Contributions
25&26/9/2000	:	Working Group on Transparency in Government Procurement
26/9/2000	:	Dispute Settlement Body
26&28/9/2000	:	Trade Policy Review Body- Republic of Korea
27/9/2000	:	24th Regular Meeting of the Committee on Agriculture
27/9/2000	:	Committee on Budget, Finance and Administration
27/9/2000	:	Working party on GATS Rules
28&29/9/2000	:	Committee on Agriculture-Special Session
28&29/9/2000	:	COUNCIL FOR TRADE IN SERVICE (Aviation)
29/9/2000	:	Committee on Government Procurement
29/9/2000	:	Committee on Rules of Origin

* Source : WTO / Geneva as on August 31, 2000

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