

# India & The WTO

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FAQS ON SERVICES  
NEGOTIATIONS

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## WTO NEGOTIATIONS ON TRADE IN SERVICES: THE INDIAN PERSPECTIVE

Negotiations in Services is a mandated negotiations, mandated by Uruguay Round on Services in 1995. **This has commenced from 1.1.2000 and is continuing.** By the end of June, 2002, the process of filing initial requests in specific service sectors to various members of the WTO had to be initiated. We have been able to initiate the process and file requests to specific countries in the Medical, Dental and Health Services. There have been several rounds of stakeholder consultations before forwarding the requests. **The stakeholder consultations in the Government are a continuing process.**

World trade in services has not changed in direction since its introduction in the multilateral trading system from the Uruguay Round effective from 1/1/1995. Services trade has mostly taken place between developed countries. North America and West Europe account for 70% of the world exports of commercial services and they also account for 70% of the imports of commercial services. Even after allowing for varying estimates on world trade in services, we find that 80% of the world's trade in services occurs through only two modes, namely Mode 1 (cross-border supply of services) and Mode 3 (Establishment of Commercial Presence) out of the four modes of supply of services. Mode 2 relates to consumption abroad like tourism services etc. Mode 4 which is of significance to the developing countries, (that is movement of natural persons) has hardly grown and remains insignificant at less than 1.5% of the total trade in services. **It is this distortion that developing countries seek to correct as we go along. Mode 4 is the only one in which the developing countries have a comparative advantage. This is the mode in which we need to seek increased market access.**

The developing countries have been given a separate dispensation in GATS. The GATS seeks to increase their participation in Trade in Services by strengthening their capacity to supply services efficiently and competitively.

This is proposed to be done through improved access to technology, distribution channels and information networks. The developing countries have also been given the flexibility to open fewer service sectors and to liberalise fewer types of transactions. While opening up their markets to Foreign Service suppliers they can attach such conditions which aim at achieving the objective of greater participation of the developing countries. We should take full advantage of this dispensation while furnishing proposals.

It is perhaps appropriate to look at the reasons as to why services have grown so fast in the last decade. Technology has played a leading role. The marriage of computer technology and telecommunication has given the necessary means to develop trade in services. The cost of transmitting information between these systems has fallen dramatically. 10 years ago, a 15 minute phone call from New York to New Delhi would have cost US\$ 40 at today's prices. It now costs less than 10 cents to e-mail a 50 pages document over the same distance. Global production systems which increasingly tend to produce components in specified places and assemble the same in other places needs efficiency. Services have stepped into ensuring improvement in efficiency. Technological advantages have enabled back office operations, processing of insurance claims and call centres making services industry seek countries of competitive efficiency. **Educated and trained manpower in developing countries have also contributed to the rapid development in the services sector throughout the world.**

Since global services trade in the year 2000 at US\$ 1.4 trillion has reached 23% of merchandise trade and since **India has 49% of its GDP accounted for by the services sector, it is time that we took advantage of the market in services. Having set a target of achieving 1% of the global merchandising trade by 2007, we need to ensure its achievement.** We can achieve the target by improving our competitiveness in the goods sector through an efficiently

performing services sector. At the conclusion of the Uruguay Round negotiations, we were rightly modest in our commitments in the services sector. We have subsequently autonomously liberalised many sectors in tune with our own development needs and priorities. We shall be seeking due credit for such autonomous liberalisation and in fact, we are permitted to do so. There is, thus, sufficient scope for us to seek and offer market opportunities in the services sector.

**Movement of natural persons is of crucial importance to us in realising our potential in services. It is in this sector that the developed countries have not provided us with sufficient market. A plethora of regulations in the guise of Economic Needs Test, processing of visa applications, residency requirements, recognition of educational qualifications, social security contribution, etc. stand in the way of obtaining market access in sectors in which India definitely has an advantage. We have taken up the cause of liberalisation of movement of natural persons and presented proposals in WTO accordingly.**

India has also taken an active role in establishing the Guidelines and Procedures for negotiations which forms the basis for the ongoing negotiations. It is India's joint proposal on this issue that has been accepted almost in its entirety. We have carried out a number of studies to assess our potential so that they may be of valuable inputs to us when we submit our proposals. Each ministry has been sensitised to formulate their proposals after extensive consultations with the stakeholders. This is an on-going process.

There are other challenges to overcome. Developed countries would like to apply free market principles to provision of essential utilities. There could be challenges in certain sectors. We need to be very watchful and vigilant to ensure that these challenges do not lead to problems and we should be prepared sufficiently in advance to overcome challenges.

*(Excerpts from the speech of Mr. Murasoli Maran, Commerce & Industry Minister, at the National Seminar on WTO Negotiations on Trade in Services organised by CII on 2 July, 2002 in New Delhi)*



## SERVICES SECTORS OF IMPORTANCE TO INDIA

The level of India's exports in services, its growth rate, and the share in world trade indicates that we have significant potential in trade in services. The potential has to be actualised and we could see the multilateral negotiations under GATS as a means for realising the potential. The sectors of importance could be Computer and Related Services, professional services covering Accountancy, Auditing and Book Keeping Services, Architecture Services, Medical and Dental Services, Audio-Visual Services, Construction and Engineering Services, Educational Services and Tourism and Travel related Services. In these fields the Indian professionals have core competence and competitive advantage which needs to be actualised through liberalisation of delivery of services through mode 4 and also mode 1. There is in existence significant opportunity for exports of services under mode 2 i.e. consumption abroad under the Health services and Tourism and travel related services. This will ensure that citizens of other countries who pay very high amount for surgery and other treatment, can come to India and avail such services at a fraction of the cost of obtaining such services in their own countries.

An assessment of the strengths of the Indian service industry and the opportunity which exists in international trade of such service needs to be done keeping in view the long-term perspective. The weakness of the service industry and the challenges which it may have to face in a liberalised trading atmosphere will also have to be kept in mind. The changes

taking place in the demography and the upgradation of skills should also be taken into account while preparing the requests and offers.

We need to be futuristic in preparing our requests and offers. A perspective of 8-10 years has to be borne in mind while preparing the requests. The negotiations are likely to be concluded by end of 2004; they are likely to be valid for 5 years, before fresh negotiations for progressive liberalisation of trade in services will be initiated. Thus, as far as possible, we should keep the benchmark of year 2012 in view while preparing requests and offers.

The industry must have the level playing field when competing with foreign services suppliers. It may be necessary to consider domestic reforms in various service sectors where increased competition is likely to be faced. I am sure the administrative Ministries would be receptive to suggestions on such reforms. The industry must play a proactive role to ensure that such reforms are carried out and they are able to take advantage of same. In the process of negotiations, the Government would welcome inputs from the stake holders including the industry associations. I would like to assure that the stake holders will be fully involved in the preparatory process and we would value their inputs for the negotiating process.

— **Dipak Chatterjee, Commerce Secretary,**  
**in his address at the CII Seminar on 2 July, 2002.**



## FREQUENTLY ASKED QUESTIONS ON GATS (WTO Negotiations on Trade in Services)

### QUESTIONS ABOUT THE AGREEMENT

**Q.1. When did the General Agreement on Trade in Services (GATS) come into existence?**

**A.1.** The General Agreement on Trade in Services (GATS) came into existence as a result of the Uruguay Round of negotiations and entered into force on 1 January 1995, with the establishment of the WTO.

The multilateral legal instruments resulting from the Uruguay Round were treated as a single undertaking. India also signed all the WTO agreements under the single undertaking rule and GATS is a part of this whole package.

**Q.2. What is the main purpose of GATS?**

**A.2.** Prior to the Uruguay Round, services were considered to offer less potential for trade expansion than goods, thanks to existence of technical, institutional and regulatory barriers. However, the development of new transmission technologies facilitating the supply of services (e.g. satellite communication, electronic banking, tele-education), the opening of monopolies in many countries (e.g. voice telephony), and gradual liberalisation of hitherto regulated sectors like transport, banking and insurance combined with changes in consumer preferences, enhanced the "tradeability" of services. These developments increased international services flows and created a similar need for multilateral disciplines - as in the area of goods. Thus, the main purpose for the creation of the General Agreement on Trade in Services (GATS) was to create a credible and reliable system of international trade rules, which

ensured fair and equitable treatment of all countries on the principles of non-discrimination. It aims at stimulating trade and development by seeking to create a predictable policy environment wherein the member countries voluntarily undertake to bind their policy-regimes relating to trade in services.

**Q.3. What is the importance of the services sector to the economy?**

**A.3.** The importance of services sector can be judged from the fact that world trade in commercial services amounted to US\$ 1440 billion in the year 2001 which is 23% of goods trade. In India, too, services accounted for 49% of GDP in 2000-2001 while agriculture accounted for 27% of GDP and manufacturing 23%.

The growth of trade in services is expected to lead to the following benefits:-

**Economic performance:** Presence of an efficient services infrastructure is a precondition for economic success. Services such as telecommunications, banking, insurance and transport, supply strategically important inputs for all sectors, both in goods and services.

**Development:** Access to world-class services help exporters and producers in developing countries to capitalise on their competitive strength, whatever goods and services they are selling.

**Employment Opportunities:** Growth in trade in services promotes employment within the country and, to a larger extent, growth in opportunities for professionals overseas.

**Consumer Choice:** There is strong evidence in many

services, e.g. Telecom that liberalisation leads to lower prices, better quality and wider choice for consumers.

**Technology transfer:** Services liberalisation encourages, foreign direct investment (FDI). Such FDI generally brings with it new skills and technologies that spill over into the wider economy in various ways.

**Q.4. What services are covered under GATS and what areas are excluded?**

**A.4.** The GATS covers all internationally traded services with two exceptions: services provided to the public in the exercise of governmental authority, and, in the air transport sector, traffic rights and all services directly related to the exercise of traffic rights.

The WTO Secretariat has divided all services into the following 12 sectors.

1. Business services (including professional and computer services)
2. Communication services
3. Construction and Engineering services
4. Distribution services (e.g. Commission agents, wholesale & retail trade and franchising)
5. Education services
6. Environment services
7. Finance (including insurance and banking) services
8. Health services
9. Tourism and Travel services
10. Recreation, Cultural and Sporting Services
11. Transportation Services, and
12. Other services not elsewhere classified.

**Q.5. How are the supply of services categorised under GATS?**

**A.5.** GATS provides for four modes of supply of services: cross-border supply, consumption abroad, commercial presence, and presence/movement of natural persons.

**Mode 1: Cross-border** supply refers to a situation where the service flows from the territory of one Member country into the territory of another Member country. For example, an architect can send his architectural plan through electronic means; a teacher can send teaching material to students in any other country; a doctor sitting in Germany can advise his patient in India through electronic means. In all these cases, trade in services takes place and this is equivalent to cross-border movement of goods.

**Mode 2: Consumption abroad** refers to a situation where consumer of a service moves into the territory of another Member country to obtain the service. For example, a tourist using hotel or restaurant services abroad; a ship or aircraft undergoing repair or maintenance services abroad.

**Mode 3: Commercial presence** implies that service suppliers of a Member country establish a territorial presence (a legal presence) in another Member country with a view to providing their services. In this case, the service supplier establishes a legal presence in the form of a joint venture/ subsidiary/representative/ branch office in the host country and starts supplying services.

**Mode 4: Presence or movement of natural persons** (this only refers to export of manpower) covers situations in which a service is delivered through persons of a Member country temporarily entering the territory of another Member country. Examples include independent service suppliers (e.g. doctors, engineers, individual consultants, accountants, etc.) However, GATS covers only temporary movement and not citizenship, residence or employment on a permanent basis in the foreign country.

Let us consider a specific example to distinguish between the four modes of supply. A particular firm in

country 'X' establishes a subsidiary in country 'Y' to provide services. This is supply of services through Mode 3 i.e. Commercial Presence. An architect of the said firm sends blueprints over the Internet to another firm in country "Y"- this is Mode 1 i.e. Cross Border Supply. An Engineer from the said firm is deputed to work in the subsidiary firm established in country 'Y' for a limited period for managerial operations - this is Mode 4 i.e. Movement of Natural Persons. Certain trainees from the subsidiary in country 'Y' visit country 'X' and avail of both education and tourism services in country 'X' - this is Mode 2 exports i.e. Consumption Abroad for country 'X'.

**Q.6 Do GATS commitments affect a Member's ability to pursue national policy objectives and priorities?**

**A.6** The GATS recognises the right of Members to regulate the supply of services in pursuit of their own national policy objectives. However, the GATS establishes a framework of rules to ensure that Members administer their services regulations in a manner which is reasonable, objective and impartial and does not constitute unnecessary barriers to trade. For example, a Member can decide upon the licensing conditions for grant of a Telecom license for Fixed/Mobile Services in accordance with the Commitments taken on Basic Telecommunication Services. Or a Member can decide the criteria for granting the right to practice the profession of Chartered Accountancy.

The Doha Ministerial Declaration reaffirms the right of members to regulate and to introduce new regulation on the supply of services.

**Q.7 What are the general obligations under the GATS?**

**A.7** Obligations contained in the GATS may be categorised into two groups:

- (i) General obligations which apply directly and automatically to all Member countries of the WTO, regardless of the existence of commitments made for each sector;
- (ii) Conditional obligations which apply to sectors where the Member country has assumed market access and national treatment obligations.

The general obligations include:

**(a) Most Favoured Nation (MFN) Treatment:**

Favour one, favour all. MFN means treating one's trading partners equally. Under GATS, if a country allows foreign competition in a sector, equal opportunities in that sector should be given to service providers from all other WTO members. (This applies even if the country has made no specific commitment to provide foreign companies access to its markets under the WTO).

MFN applies to all services, but some special temporary exemptions have been allowed.

The only possible derogation/exclusion from the MFN principle exists in the form of a so-called Article II-Exemption. At the time of entry into force of the WTO Agreements, the member countries were allowed to schedule exemptions to the MFN principle, i.e. they could indicate their measures which they did not intend to multilateralise on an MFN basis to the WTO member countries. These MFN exemptions are subject to review and should, in principle, not last longer than 10 years.

- (b) Transparency:** Member countries are required, inter-alia, to publish all measures of general application and establish national enquiry points to respond to other Member's information requests.

- (c) **Other unconditional obligations:** include the establishment of administrative review and appeals, procedures and disciplines on the operation of monopolies and exclusive suppliers.

## **Q.8 What are the conditional obligations under GATS?**

**A.8** GATS follows a positive list approach under which each member is expected to undertake specific liberalisation commitments through a process called "scheduling". Each Member identifies the service sectors/ sub-sectors and modes of supply in which it is willing to make commitments. Then the member inscribes the conditions under which it will allow services and service suppliers access to its market. This is done by indicating limitations it wishes to place on market access and national treatment while granting access. Thus national treatment is not mandatory in GATS but is negotiated on a sector to sector basis.

This contrasts with the way the national treatment principle is applied to goods - in that case, once a product has crossed a border and been cleared by customs it has to be given national treatment even if the importing country has not made any commitment under the WTO to bind the tariff rate.

- a) **Market Access:** The granting of market access is a commitment undertaken by individual Members in specified sectors after negotiations. It may be made subject to one or more limitations. For example, limitations may be imposed on the number of services suppliers, service operations or employees in a sector, the value of transactions, the legal form of the service supplier, or the extent of participation of foreign capital.
- b) **National Treatment: National** treatment means treating one's own nationals and foreigners equally.

In services, it means that once a foreign company has been allowed to supply a service in one's country there should be no discrimination between the foreign and local companies.

Under GATS, a country only has to apply this principle when it has made a specific commitment to provide foreigners access to its services market. It does not have to apply national treatment in sectors where it has not made any commitment even though the service is permitted under liberalised regime. Even in the sectors where it has made commitment for market access, GATS does allow limitations on national treatment to be taken fully or partially.

## **Q.9 What information is contained in services "schedules"?**

**A.9** Each WTO Member is required to have a schedule of specific commitments. It is a document which identifies the services sectors, sub-sectors or activities which are subject to Market Access and National Treatment obligations and any limitations attached to them. The necessary indications must be entered with respect to each of the four different modes of services supply. Most schedules consist of a sectoral and a horizontal section. The limitation(s) indicated in the sectoral section apply only to the particular sector/sub-sector to which the section refers. For instance, in the sectoral commitments relating to banking services, India has indicated that only 12 foreign bank branches would be allowed to open in a year. This means that the commitment is limited only to the banking services. This commitment was made in 1997 but autonomously we are permitting 15 foreign bank branches in a year. On the other hand, the limitation(s) contained in the horizontal section would apply to all sectors/sub-sectors committed in the schedule. For example, if a member

country undertakes a commitment in horizontal section that it will allow entry to business visitor(s) under Mode 4 for 90 days only, this will mean that the business visitor belonging to all service sectors which has been committed in the schedule will be allowed entry for 90 days. The schedules of specific commitments of various countries can be accessed on line at the WTO website (<http://www.wto.org>.) [<http://tsdb.wto.org/wto/Public.nsf/FSetPredefinedReport?OpenFrameSet>]

**Q.10 Can specific commitments be withdrawn or modified at any time?**

**A.10.** As per Article XXI of the GATS, specific commitments may be modified not earlier than three years after their entry into force. However, countries which may be affected by such modifications may request the modifying Member to negotiate compensatory adjustments. This does not mean monetary compensation but the replacement of the commitment withdrawn by another of an equivalent value. Any such adjustments made are to be granted on an MFN basis.

**Q.11. Can commitments be introduced or improved upon outside the context of multilateral negotiations?**

**A.11.** Yes, any commitment can be added or improved at any time autonomously by the member concerned but it becomes a binding commitment only if it is scheduled.

**Q.12. Are there any specific exemptions in the GATS to cater to important national policy interests?**

**A.12.** Governments are free to pursue any national policy objectives provided the relevant measures are compatible with the GATS. More specifically, the GATS allows Members in specified circumstances to take or maintain measures in contravention of their obligations. This applies in particular to:

- (i) measures in reaction to serious balance of payments and external financial difficulties;
- (ii) measures necessary to protect public morals or human, animal or plant life or health; and
- (iii) measures necessary to secure compliance with laws or regulations not inconsistent with the Agreement including, among others, measures necessary to prevent deceptive or fraudulent practices.

Further, the Annex on Financial Services entitles Members, regardless of other provisions of the GATS, to take measures for prudential reasons, including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system.

**Q.13. Are there any provisions of interest to developing countries?**

**A.13.** Article IV of GATS specifically provides that increasing the participation of developing countries in world trade shall be facilitated by different members through strengthening of their domestic services capacity, improvement of their access to distribution channels and information networks, and liberalisation of market access in sectors and modes of export interest to developing countries. The agreement also recognises that in the negotiations on liberalisation of trade in services, appropriate flexibility will be given to individual developing country members for opening fewer sectors, liberalising fewer types of transactions and attaching such access conditions which aim at achieving the objectives of Article IV while allowing foreign service suppliers access to their markets.

## QUESTIONS ABOUT THE ONGOING NEGOTIATIONS

### **Q.14. What is the present status of the WTO negotiations on Services?**

**A. 14.** The GATS came into existence at the end of the Uruguay Round establishing the WTO in 1995. Under Article XIX of GATS, further round of negotiations for progressive liberalisation had been mandated to begin not later than 5 years from the date of establishment of WTO. Accordingly, negotiations have commenced from 1/1/2000. This negotiation is continuing and is scheduled to be completed by 1/1/2005 as decided in the Doha Ministerial Conference.

### **Q.15. What principles underlie the Negotiations?**

**A.15.** The underlying principles of the services negotiations are contained in the Guidelines and Procedures for Negotiations on Trade in Services (NGP) which member countries were required to finalise.

India played an instrumental role in finalisation of the NGP. India alongwith 22 other developing countries prepared and submitted a draft proposal on NGP entitled "Elements of Negotiating Guidelines and Procedures" for consideration of the WTO membership. The adopted NGP is largely based on India's proposal.

The main elements of the Negotiating Guidelines and Procedures, inter-alia, are:

- 1) There shall be progressive liberalisation in trade in services with due respect to national policy objectives, the level of development and the size of economies.
- 2) The existing structure and principle of GATS shall be maintained including the right to choose the sectors and modes of supply while undertaking commitments.

- 3) The Request-Offer approach shall be the main method of negotiations.
- 4) The starting point for negotiations shall be the current schedules of commitment.
- 5) The negotiations shall aim to increase the participation of developing countries in the Trade in Services. There shall be flexibility for developing country members in making commitments and special priority shall be given to the least developed countries.

### **Q.16. What Negotiating methods are to be adopted?**

**A.16.** The main method of negotiations shall be the request and offer approach. In a request-offer approach at the initial stage countries would lay on the table their requests on other trading partners (i.e. their list of demands, seeking greater market access for their exports from them) and in turn also place their offers to other trading partners (i.e. the concession that they are willing to offer giving greater market access to imports of services from its trading partners). Subsequently, it will be followed by negotiations between countries either bilaterally or between Groups of Countries or multilaterally. Any commitments agreed to during this process with a particular country or a Group of countries or multilaterally will be made applicable in respect of other countries at the end of negotiations. The starting point of negotiations will be the existing schedules of specific commitments of the member countries.

### **Q.17. What is the Calendar for Negotiations?**

**A.17.** The Doha Ministerial Declaration mandates that members shall submit initial requests by June, 2002 and initial offers by March 2003. The Declaration also prescribes that the Negotiations shall close by 1

January, 2005. The submission of Requests and Offers is a continuous process which is likely to continue till 2005 or till the end of Negotiations.

**Q.18. What are the sectors of interests to developed countries?**

**A.18.** The main sectors of interest to developed countries in the current negotiations are business services, telecommunication services, financial services, transport services, distribution services, energy services, environmental services and education services. The main mode of supply of particular interest to developed countries is Mode 3, i.e. commercial presence because they have the financial capability required for establishment of legal presence in the territory of the trading partner

**Q.19. What are the sectors and modes of supply of particular interest to India and other developing countries?**

**A.19.** The mode of supply of particular interest to India and other developing countries is Mode 4, i.e. the movement of natural persons. India, in particular, has a large pool of well-qualified professionals in the services sectors like computer and related services, education services, audiovisual services, accountancy services, architectural services, construction and engineering services, health services and consultancy services. India has fairly large comparative advantage over other Member countries with regard to supply of professional services in these service sectors. Besides, for India modes 1 and 2 are also important as via mode 1 it can deliver professional services electronically and via mode 2 it can provide services such as medical, educational and tourism services to the foreign patients, students and tourists visiting India.

**Q.20. What is India's strategy to achieve greater liberalisation in Movement of Natural Persons?**

**A.20.** India is a proponent of liberalisation of trade in services through Mode 4. In order to promote the liberalisation of mode 4, India has submitted a proposal at the Special session of the Council for Trade in Services on "Liberalisation of Movement of Professionals" (S/CSS/W/12). The paper can be accessed at the Department of Commerce Website [www.commin.nic.in](http://www.commin.nic.in) [[http://commin.nic.in/doc/wtosn\\_papers.htm](http://commin.nic.in/doc/wtosn_papers.htm)]. The salient features of the proposals are as follows :

- i) The Indian proposal notes that the developed member countries have taken limited commitments in Mode 4, which is of significant interest to developing countries. These commitments are further reduced in scope on account of various measures taken by developed member countries.
- ii) The Indian proposal suggests following strategy for improving trade in services through mode 4:-
  - a. Economic Needs Test (ENT): In order to reduce the scope for discriminatory practices in use of ENT, multinational norms need to be established..
  - b. Social security contributions need not be required to be made for temporary movement as contributors are not eligible for receiving benefits of such contributions. As it affects the comparative advantage of professionals, they should be exempted from such payments.
  - 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. Non-recognition of qualifications by developed countries often acts as a serious barrier to market entry. It would be necessary to work for the establishment of multilateral norms to facilitate Mutual Recognition Agreements (MRAs) among Member countries. There should be a mechanism to attend to specific problems being faced by developing countries regarding the mutual recognition of qualifications so as to ensure complete equity and fairness in recognition matters.

**Q.21. Is it possible that there could be abnormal increase in imports in any service sectors? If yes, what could be done?**

**A.21.** The GATS architecture is based on a positive list approach where the member countries have a right to choose the sectors and the modes of supply in which they would undertake commitments. Normally, it is expected that the commitments made would be in accordance with the comfort level of the member countries. In most cases, autonomously similar liberalisation policies are in any case being followed. It is, therefore, unlikely that there would be an appreciable increase in the flow of services from

abroad into India (i.e. surge of imports) on account of the commitments undertaken. However, in view of the possibility, the GATS provides for negotiations on emergency safeguard measures under Article X. The negotiations are now under progress on the question of Emergency Safeguard Measures whose purpose would be to provide for the suspension of a commitment in case of injury or the threat of injury to a domestic service sector on account of abnormal increase in flow of services from abroad.

**Q.22. Will the Services Negotiations force India to open all the service sectors to foreign competition?**

**A.22.** There is no obligation on any WTO member to allow foreign supply of any particular service. Governments are free to choose those services on which they will make commitments guaranteeing access to foreign suppliers. Each member must have a national schedule of commitments but there is no rule as to how extensive it should be. India had also undertaken commitments at the end of Uruguay Round (1994) which can be accessed at [www.commin.nic.in \[http://www.commin.nic.in/doc/wtosn\\_papers.htm\]](http://www.commin.nic.in/doc/wtosn_papers.htm). As can be noted, the commitments were taken only in 33 sub-sectors and while taking commitments a number of limitations on market access and national treatment were made in the schedules consistent with our national policy objectives. In most cases, these were no more than the autonomously liberalised policies already in force in India.



## **SERVICES NEGOTIATIONS OFFER REAL OPPORTUNITIES FOR ALL WTO MEMBERS AND MORE SO FOR DEVELOPING COUNTRIES**

WTO negotiations on trade in services have progressed to an important stage as Member Governments submit liberalisation requests to their trading partners. In the coming weeks, important services meetings will be held which will further advance the negotiations. Governments, representing countries from all levels of development attach great importance to these negotiations because services occupy a vital and growing role in the global economy and because increased trade in services offers the potential for wide economic benefits in all countries. Many studies project that developing countries stand to gain the most from liberalisation of trade in services.

These negotiations have been inaccurately portrayed in certain quarters as facilitating the liberalisation or privatisation of government services including health, water distribution and education. This is untrue. The facts are that such sectors have rarely been discussed in the negotiations and that the principal focus of the talks lies in other services sectors.

The fact sheet below offers statistics on the importance of services to the global economy, the state of play in the services negotiations and projections of the economic benefits that would accrue through further liberalisation.

### **Statistics on services trade liberalisation**

- Liberalisation of services in developing countries could provide as much as \$6 trillion in additional income in the developing world by 2015, four times the gains that would come from trade in goods liberalisation. (from the World Bank's report "Global Economic Prospects for Developing Countries" 2001)
- Between 1990 and 2000, growth of world services output was 2.9%, double that of agriculture which was only 1.4%. As a result, the contribution of the service sector to world gross domestic product was 64% in the

year 2000, compared to 57% in 1990. (from the World Bank "World Development Indicators" 2001)

- Services now account for approximately 50 percent or more of output in the following developing country regions: Europe and Central Asia, Latin America and Caribbean, Middle East and North Africa, South Asia and Sub-Saharan Africa. (from the World Bank "World Development Indicators" 2001)
- Between 1990 and 2000, the growth of exports of commercial services for developing countries (9%) exceeded that for developed countries (5.5%). The 49 least developed countries also experienced particularly strong export growth of commercial services (6.3%). (WTO statistics)
- 25 developing countries depend on the export of commercial services for more than half their total export revenues. (WTO statistics)

### **Studies on gains from services liberalisation**

There are a number of studies on the impact of services trade liberalisation. Although each of these studies uses a different scenario to project the gains from liberalisation, all show that the economic gains from services liberalisation greatly exceed the gains from merchandise trade liberalisation. Moreover, each of the studies shows that developing countries would be major beneficiaries of such liberalisation

### **According to the World Bank's report "Global Economic Prospects for Developing Countries" 2001)**

- Liberalisation of services in developing countries could provide as much as \$6 trillion in additional income in the developing world between 2005-2015.
- Services underpin economic development efforts,

according to the Bank, because more efficient provision of services in finance, telecommunications, transportation and professional business services have broad linkage effects.

- The Bank stresses the importance of effective governmental management of liberalisation programmes, including the elimination of barriers to entry for new competitors, regulatory policies and removal of export restrictions.
- Bank estimates suggest that countries that have fully liberalised trade and investment in finance and telecommunications grew on average 1.5% fast than other countries over the past decade.
- Practices such as cargo reservation, limits on provision of port services and collective rate setting among shipping lines can increase freight rates by up to 25% on certain routes, the Bank says.
- Inefficient container services in Brazil have raised the price of customs services, warehousing, inland transport and port services to twice the global average.
- Liberalisation of services under the General Agreement on Trade and Services can, according to the Bank, accelerate and lend credibility to domestic policies as well as increasing access to markets in industrial countries.

#### **According to the University of Michigan**

- Gains from a cut of 33 percent in barriers to services trade should raise global economic welfare by \$389.6 billion, which exceeds their estimated gains from manufactures liberalisation of \$210.7 billion.

#### **State-of-play of the services negotiations**

- 55 WTO Member Governments have tabled written proposals, either individually or jointly (European Communities, Andean Community, Mercosur and others).
- Of the 55 governments who have submitted proposals, a majority (32) are governments representing developing countries.

- Among the sectors covered are: professional services (18 proposals representing 20 Members), tourism (14 proposals), telecommunications and transport services (12 proposals each), financial services (11 proposals) and distribution (10 proposals).
- Three of the proposals deal with the education sector.
- Medical and health services have not yet been mentioned at all.
- Developing countries' genuine interest in these negotiations is not only reflected in the high number of negotiating proposals, but strong demand for technical assistance from the WTO Secretariat. In 2002, the WTO's Trade in Services Division has received more than 60 invitations from developing and least developed countries to conduct services seminars and workshops. In addition, two symposia, one dealing with the assessment of services trade and one with the movement of natural persons under GATS, have been organised for WTO Members in Geneva in early 2002. All papers discussed on these occasions are available on the WTO website at "www.wto.org".

#### **Principles of the services negotiations**

- **Public services.** Governmental services - i.e. services provided by governments on a non-competitive and non-commercial basis - are beyond the scope of GATS and not subject to negotiation.
- **Liberalisation does not mean privatisation.** The GATS, and the ongoing negotiations, do not require the privatisation, commercialisation or deregulation of any service.
- **A voluntary process.** No country is compelled to make any changes to its services regime, in whatever sector, which it is not prepared to concede voluntarily.
- **The right to regulate: a fundamental premise of the GATS.** The objective of the GATS is to liberalise services trade, not to deregulate services, many of which are closely regulated for very good reasons. The Negotiating Guidelines adopted by the Council for Trade in Services in March 2001, clearly recognise "the right

of Members to regulate, and to introduce new regulations, on the supply of services". They further state, unequivocally, that "the process of [services] liberalisation shall take place with due respect for national policy objectives, the level of development and the size of economies of individual Members ..."

- **A democratic process.** Most WTO Members are constitutionally required to submit the results of the negotiations for ratification to their Parliaments. In addition, the Swiss Constitution provides for the possibility of popular referendum.
- **Universal services.** If countries decide to open a service sector to competition under the Agreement, they retain the right to operate whatever universal service obligation they deem necessary on social, regional and other policy grounds. For example, a government can request a private telecommunications company to offer its services to all inhabitants of the country and not just in the capital and big cities.
- **Transparency.** All negotiating proposals tabled by WTO Members to date have immediately been put on the WTO Website. They are publicly available at [www.wto.org](http://www.wto.org).

### Case studies

- **Tunisia**

From the World Bank's report "Global Economic Prospects for Developing Countries" (2001)

Services liberalisation could provide significant gains to Tunisia, with welfare gains equivalent to 7 percent of GDP. These are twice as large as the gains predicted for Tunisia from its preferential agreement with the EU. The largest benefits come from the liberalisation of foreign investment in financial services, communications, and transportation. Liberalisation lifts economic growth by eliminating inefficiency through increased international competition. Services are available not only at lower prices but also in greater varieties through an increase in the number of firms that would operate in Tunisia. More efficient financial, communications, and transportation sectors

are also likely to attract foreign firms to other industries in Tunisia.

- **India**

From the WTO Trade Policy Review of India (2002)

In 2000/01 India's services sector accounted for around 49% of GDP and employed around 19% of the total workforce (in 1999/00), which suggest that the sector's labour productivity may be considerably higher than the national average. Other infrastructure services, such as electricity, gas and water, accounted for 2.5% of GDP. As a significant and growing contributor to the economy, an efficient services sector is crucial for economic growth. Recognising this, the Prime Minister's Economic Advisory Council (EAC), in a recent report, has noted that the quality of infrastructure services such as power, telecommunications and transport is not what it might be. Inefficient transportation, notably roads, maritime services, and ports, constrain trade and add to the overall costs of doing business. In addition, the power sector has become a major bottleneck to economic activity. The Council also noted that India's infrastructure required both a massive increase in investment and greater efficiency in order to support economic growth.

Reform in infrastructure and other services has been undertaken since the early 1990s with varying degrees of success. In several services, including banking and electricity, liberalisation began in the early 1990s. The authorities have noted that although the decision to invite private investment was frequently accompanied by regulatory reforms, teething problems became impediments to attracting private investment. In the case of electricity, for example, although private sector investment has been encouraged since the early 1990s, a major problem identified was the lack of accompanying regulatory changes, notably to restructure the existing State Electricity Boards (SEBs) and to pricing of electricity tariffs. Partly as a result, private investment in the sector has not been as high as expected.

By contrast, progress in the telecommunications sector has been more rapid in recent years, with the sector being opened to private investment. As a result, the telecommunications

infrastructure has been greatly expanded and tariffs have been reduced significantly. Reform in other key infrastructure sectors, including civil aviation, maritime services, and ports has been slower, although steps have been taken to allow private sector investment in ports in recent years to develop capacity and improve efficiency. The overall efficiency of these sectors remains low, however, and inadequate for India's infrastructure needs. Moreover, as public sector investment in infrastructure becomes increasingly constrained due to budgetary considerations, the need to create a competitive and regulatory environment in which private sector investment can take place becomes increasingly urgent.

From the WTO Annual report (2001)

In India, growth rate of commercial services in the 1990s was 14.5%, more than double that of world trade (6.4%).

- **Barbados**

From the WTO Trade Policy Review of Barbados (2002)

Barbados has used foreign trade and investment opportunities deftly to maintain living standards well above those of most developing countries. Its trade and investment policies have fostered world-class suppliers in a few areas, particularly tourism and financial services. Based on Barbados's natural endowments and on niche activities created by government policy, these services have become the mainstay of the economy and the main source of foreign exchange. Of necessity, however, specialisation and the small size of the economy have resulted in a narrow production base that makes Barbados vulnerable to external shocks.

The services sector has been the main engine of growth in Barbados. Its share of GDP already exceeded 67% of GDP in 1981, and had increased to 71% of GDP in 2000. The largest economic expansion has been in financial and business services. These recorded a value added in current terms of BDS\$770 million (US\$335 million) in 2000, equivalent to 18% of GDP.

According to IMF balance-of-payments statistics, total exports of services reached US\$995 million, or over US\$3,500 per capita, and 75% of the value added in the services sector that year. The bulk of exports are in travel (US\$712 million), reflecting activity in the tourism sector. Exports of financial services reached US\$64 million in 2000; this included financial

services supplied by "international" companies, which by law are not allowed to sell their services in Barbados (see below). Imports of services reached US\$487 million in 2000, up from US\$409 million in 1998, and consisted mostly of transport services (US\$163 million), insurance services, and travel services.

- **Uganda**

From the WTO Trade Policy Review of Uganda (2001)

The Services Sector shows promise for Uganda with its contribution of almost 40% to GDP. Growth has lagged behind that of the industrial sector but performed better than the agriculture sector. In 1999/2000, services grew by 6.2%, industry by 9.9% and agriculture by 1.6%. Uganda is traditionally one of the leading providers of high quality social services in east Africa. In the 1960s, Uganda offered tertiary educational services that were renowned throughout eastern Africa. Institutions such as Makerere University and Mulago Hospital provided training for the region's aspiring professionals.

Uganda does not have any overall policy objective for the services sector. However, under the aegis of the Ugandan Investment Authority, the Big Push Strategy is to promote specific subsectors, several of which are in the services sector. The overall objective of the Big Push Strategy is to transform Uganda from one of the world's poorest economies into a world-class provider of services with a widespread impact on general living standards, as well as a producer of high quality agri-products. The strategy focuses on eight subsectors in which Uganda has a potential competitive advantage, most of which are services, namely education services, medical services, information and communications technology, printing and publishing, financial services, and air cargo logistics and an inland port. The emphasis of this strategy is on streamlining government machinery to promote the growth of the private sector, promoting confidence among investors in these subsectors, and other actions.

*(Source : WTO)*



## **EU KEEPS MARKETS OPEN - EXCEPT FOR TEXTILES & AGRICULTURE, SAYS WTO**

**TRADE POLICY REVIEW : EUROPEAN UNION**

The trade Policy Review Body (TPRB) of the WTO concluded its sixth review of the EU on 24 & 26 July, 2002. The text of the Chairperson's concluding remarks is given below as a summary of the salient points which emerged during the discussion:

"This, the sixth Review of the European Union (EU) has been a very open and fruitful dialogue between the EU and its trading partners. I think that Members are very conscious of the importance of the EU to their domestic economies, as a market for their exports, as a source of imports and as a provider of foreign direct investment. Consequently, there were many interventions and hundreds of questions were asked. In this regard, I would like to commend Deputy Director-General Abbott and his team for the willingness to engage in the true spirit of the review process and for the heroic efforts they made to provide in such short order the written answers to most of the questions posed.

Members acknowledged the leadership role of the EU in the WTO, notably in securing agreement on the Doha Development Agenda (DDA), thus demonstrating its support for an open, rules-based multilateral trading system. The continued commitment of the EU will be critical to the success of the DDA. Members also welcomed the EU's strong commitment to enhancing the participation of developing countries in the WTO, given concrete form in the "Everything-but-Arms"

initiative for LDCs, the preferences offered to ACP countries and donations for trade-related technical assistance.

The EU was praised for its efforts to improve the growth profile of the European economy. Members noted the benefits to their traders of the adoption of the euro. The EU was complimented on the progress made to complete the Internal Market, notably with respect to financial and telecom services, and encouraged to further open postal services and energy markets to competition.

Concerns were raised by many Members on the impact on their exports to the EU of new product and product-related regulations for health, consumer protection, safety or environmental purposes. Members emphasised their strong attachment to the basic principles underlying the WTO Agreements, in particular that SPS measures should be based on science, and that unnecessary obstacles to trade should not be created. In this regard, the EU's use of the precautionary principle was queried, as was the wider scope of labelling requirements for meat and biotech products. Many developing countries feared a disproportionate impact on their own small and medium-sized producers of producer responsibility for management of waste. More generally, given the substantial impact of many Community acts on the interests of third countries, Members emphasised the importance they attach to transparency and participation in consultations on proposed regulations. Mr. Abbott indicated that the problem was well recognised by the Commission and that serious consideration was being given to improving the situation.

The EU's extensive network of preferential trade agreements and arrangements was also discussed. The Commission emphasised the complementary nature of multilateral and bilateral liberalisation, noting the "WTO plus" nature of recent agreements, and the strengthening of rules on RTAs under

the DDA. A related issue raised by some Members was the potential for trade diversion from the enlargement of the EU and the adoption of Community policies by candidates.

The Common Agricultural Policy (CAP), and prospects for its reform under the DDA, received a great deal of attention during this meeting. Many Members underlined the adverse impact of the CAP on their exports of agricultural products. It was also argued that the CAP has hampered the development of the agricultural sector in developing countries, which could otherwise be an important source for economic growth and poverty reduction. Members welcomed the thrust of the Commission's recently announced Mid Term Review of the CAP, although it was considered that far-reaching reforms would better meet their concerns, notably in the sugar and dairy sectors, and fulfil the ambitions of the DDA.

The continued protection of the EU's textiles and clothing sector was another issue that received considerable attention from Members, who noted the EU had back-loaded the liberalisation of 80% of quotas to the end of the integration process. Members were also concerned about the impact on their steel exports to the EU of the safeguard action on steel and urged the EU not to take definitive action. Concern was also expressed on the use of anti-dumping by the EU and the rising use of countervail.

With respect to services, the EU was queried on the barriers to entry of natural persons, as well as on the preferential terms granted under bilateral agreements. The EU was encouraged to ensure that financial service providers from third countries would also benefit fully from the more open conditions of competition on the EU market resulting from the Financial Services Action Plan.

With respect to intellectual property protection, a number of Members queried the Commission on the protection of

geographical indications in the EU, in particular those from third countries. Questions were asked on the implications of the new directive on copyright and neighbouring rights, and the proposals on a Community Patent, computer-implemented inventions, and possible new legislation on enforcement of intellectual property rights.

Members also sought further clarification on a number of specific areas, including:

- the reform of the fisheries regime to meet sustainable development objectives;
- the methods used to conduct Sustainability Impact Assessments (SIAs);
- special incentives for adoption of environmental or social standards by third countries;
- reduction of tariff peaks and tariff escalation;
- subsidies to aircraft manufacture, to shipbuilding and the elimination of harmful tax competition;
- the new legislative framework for government procurement and the operation of the Government Procurement Agreement in the EU;
- the draft block exemption for motor vehicle distribution and servicing agreements; and
- VAT treatment of transactions effected by e-commerce.

In conclusion, I think there has been a very effective dialogue between the Commission and the EU's trading partners on their concerns regarding the course of its trade and trade-related policy-making. There is no doubt that the EU is entering a historically significant phase of its development, with improved governance and reshaped institutions on its current agenda, and enlargement just ahead. The situation of the European economy, although improved, remains challenging.

And, while the EU's attempts to achieve a better balance between economic efficiency and environmental and social considerations are laudable, this Review meeting has underlined the extent to which interdependence through trade leads countries outside the EU to have vital interests in the outcome".

## **BACKGROUND**

The review enables the TPRB to conduct a collective examination of the full range of trade policies and practices of each WTO member countries at regular periodic intervals to monitor significant trends and developments which may have an impact on the global trading system.

The review is based on two reports which are prepared respectively by the WTO Secretariat and the government under review and which cover all aspects of the country's trade policies, including its domestic laws and regulations, the institutional framework, bilateral, regional and other preferential agreements, the wider economic needs and the external environment. A record of the discussion and the Chairperson's summing-up together with these two reports will be published in due course at the complete trade policy review of the European Union and will be available from the WTO Secretariat, Centre William Rappard, 154 rue de Lausanne, 1211 Geneva 21.

**Since December 1989, the following reports have been completed:** Argentina (1992 and 1999), Australia (1989, 1994 and 1998), Austria (1992), Bahrain (2000) Bangladesh (1992 and 2000), Barbados (2002), Benin (1997), Bolivia (1993 and 1999), Botswana (1998), Brazil (1992, 1996 and 2000), Brunei Darussalam (2001), Burkina Faso (1998), Cameroon (1995

and 2001), Canada (1990, 1992, 1994, 1996, 1998 and 2000), Chile (1991 and 1997), Colombia (1990 and 1996), Costa Rica (1995 and 2001), Côte d'Ivoire (1995), Cyprus (1997), the Czech Republic (1996 and 2001), the Dominican Republic (1996), Egypt (1992 and 1999), El Salvador (1996), the European Communities (1991, 1993, 1995, 1997, 2000 and 2002), Fiji (1997), Finland (1992), Gabon (2001), Ghana (1992 and 2001), Guatemala (2002), Guinea (1999), Hong Kong (1990, 1994 and 1998), Hungary (1991 and 1998), Iceland (1994 and 2000), India (1993, 1998 and 2002), Indonesia (1991, 1994 and 1998), Israel (1994 and 1999), Jamaica (1998), Japan (1990, 1992, 1995, 1998 and 2000), Kenya (1993 and 2000), Korea, Rep. of (1992, 1996 and 2000), Lesotho (1998), Macao (1994 and 2001), Madagascar (2001), Malawi (2002), Malaysia (1993, 1997 and 2001), Mali (1998), Mauritius (1995 and 2001), Mexico (1993, 1997 and 2002), Morocco (1989 and 1996), Mozambique (2001), New Zealand (1990 and 1996), Namibia (1998), Nicaragua (1999), Nigeria (1991 and 1998), Norway (1991, 1996 and 2000), OECS (2001), Pakistan (1995 and 2002), Papua New Guinea (1999), Paraguay (1997), Peru (1994 and 2000), the Philippines (1993 and 1999), Poland (1993 and 2000), Romania (1992 and 1999), Senegal (1994), Singapore (1992, 1996 and 2000), Slovak Republic (1995 and 2001), Slovenia (2002), the Solomon Islands (1998), South Africa (1993 and 1998), Sri Lanka (1995), Swaziland (1998), Sweden (1990 and 1994), Switzerland (1991, 1996 and 2000 (jointly with Liechtenstein)), Tanzania (2000), Thailand (1991, 1995 and 1999), Togo (1999), Trinidad and Tobago (1998), Tunisia (1994), Turkey (1994 and 1998), the United States (1989, 1992, 1994, 1996, 1999 and 2001), Uganda (1995 and 2001), Uruguay (1992 and 1998), Venezuela (1996), Zambia (1996) and Zimbabwe (1994).



## MONTHLY REPORT ON MULTILATERAL TRADE ISSUES AND DEVELOPMENTS (JUNE 2002)

### ● **Trade Policy Review Body (TPRB): Trade Policy Review of India**

The Trade Policy Review Body (TPRB) of the WTO conducted the third Trade Policy Review of India in Geneva on 19 & 21 June, 2002. The Indian delegation to this Review was led by the Commerce Secretary Mr. Dipak Chatterjee and included the Additional Secretary (TPD), senior officials from the Department of Commerce, DGFT, Ministry of Finance and the Reserve Bank of India. Ambassador of Ireland was the Discussant for this Review and she acted in her individual capacity. There was a record number of delegations that made the statements on the opening day of this Review. **Members commended India for its strong economic performance over the past decade, with growth averaging 6% a year and a reduction in poverty. Members applauded India for its strong commitment to the multilateral trading system and for its very active role in the work of the WTO. They also appreciated India for its trade reforms that included removal of quantitative restrictions on imports maintained for balance-of-payments reasons. Noting that India was targeting even a higher economic growth to reduce poverty further, Members felt the need for stepping up the reform process, including trade measures, especially to reduce the anti-export bias in the import regime.**

Many Members also wanted to know the reasons for lower FDI inflows in spite of measures to attract foreign investment. Given the dependence on tariffs as an important source of

revenue for the government, Members stressed the need for tariff reforms being accompanied by significant reform of the internal tax system. While commending India's initiatives to simplify the tariffs and reform the tariff system, some Members were concerned at high rates of tariffs, escalation, complexity of the system and of the gap between applied and bound rates. The imposition of additional and special additional duties was also a point of concern expressed by many Members. The Members were also worried about the increased use of contingency measures. Further, there were some concerns regarding increase in other measures, notably strict labelling, certification and SPS requirements in the aftermath of the QR-free regime. Members were impressed with the performance of telecommunication and software sectors. Many Members noted that India's efforts to reform its economy would be greatly enhanced by steps on the part of India's trading partners too reduce, if not remove, their impediments to India's exports, especially in the context of no-going negotiations under the Doha Work Programme. On the second day, India gave its detailed responses to the advance written questions. India clearly expressed its commitment to the WTO and considered that if further progress was to be achieved, the onus remained on the developed countries to keep the promises made at Doha. This view was endorsed by many other Members who looked to India for leadership in these negotiations.

### ● **Meeting of Commerce Secretary with DG/WTO**

At the meeting on 20/6/2002, attended also by Mr. S.N. Menon, Addl. Secretary (TPD) and Ambassador, Mr. K. Chandrasekhar,

the Commerce Secretary Mr. Dipak Chatterjee expressed his concerns regarding slow progress on Special & Differential (S&D) Treatment issues and implementation issues. The DG briefed Commerce Secretary on progress of technical assistance programmes

### ● **Committee on Regional Trade Agreements (CRTA)**

The CRTA of the WTO held its thirty-second session on 3/6/2002 to continue examination of individual agreements and discussion on systemic issues. **The Committee took up the first round of examination of 7 Free Trade Agreements, while it continued its examination in respect of two FTAs.** A deadline of 21 June was set for submitting written questions concerning these FTAs. The deadline for responses is 26 July. **The CRTA concluded the factual examination concerning the FTAs between European Communities and Israel; and between the Kyrgyz Republic and Moldova. In respect of these two FTAs, the Secretariat has been requested to prepare the first draft of the examination report. Under the systemic issues, the Committee continued its discussion on the surveys prepared by the Secretariat on "Rules of Origin regimes in Regional Trade Agreements" and "Coverage, Liberalisation Process and Transitional Provisions in RTAs". These surveys have now been circulated as formal working documents of the Committee. There were suggestions made for widening the scope of surveys to include FTAs between developed and developing and among developing countries. Some delegations suggested surveys to cover new areas such as regulatory provisions, contingency measures, etc. There was also a suggestion to hold a second seminar on regionalism. In this regard, some Members cautioned that the timing of the second seminar should be such that it gave impetus to the on-going negotiations on RTAs in the Negotiating Group on Rules.** The Chairman highlighted the existence of gap between

agreements notified to the WTO and those actually in force and he urged Members to ensure compliance with their notification obligations. He also invited delegations to improve the timing of their submission of documentation needed for examination of individual RTAs. The Secretariat reiterated its request to the Members to submit their technical assistance needs, in all areas including the RTAs, to the Technical Cooperation Division by the deadline set by the Committee on Trade and Development in April 2002. **The next formal session of the CRTA is likely to be held in November 2002.**

### ● **Committee on Trade in Services**

Discussions were held on 5/6/2002 on the procedure for rectification, reduction and termination of MFN exemptions, which were adopted by the Council. Discussion under agenda item of technical review focussed on Article XX:2. The Secretariat was asked to prepare a note containing the negotiating history of Article XX:2. At a CTS Special Session held on 6/6/2002, **new paper was introduced by the group of developing countries on assessment of services.** On modalities for autonomous liberalisation, Chairman reported on the outcome of two informal consultations and that he would be holding further informal consultations. The modalities for treatment of LDCs were also discussed. New negotiating proposals were introduced by Cuba. Regarding organisation of future work, it was agreed to have services meeting spread over two weeks to give sufficient time for holding bilateral meetings.

### ● **Special Session on Agriculture**

The Special Session held in Geneva on 17-20 June, 2002 was attended by Shri RCA Jain, Additional Secretary, Deptt of Agriculture, Shri K.D. Sinha, Joint Secretary, Deptt of Agriculture, and Shri R. Gopalan, Joint Secretary, Ministry of Commerce. Informal discussions based on Chairman's paper was held on all elements - Export Subsidies, Export Credit,

State Trading Enterprises (STEs), Food Aid, Export Restrictions.

- **Committee on Balance of Payments Restrictions**

The Committee continued its discussions on 10/6/2002 in Geneva on the two turrets relating to outstanding implementation issues under its jurisdiction. **India made a proposal requesting the Secretariat to prepare a background paper concerning the IMF methodology and determinations on BOP matters, so as to facilitate discussions on these turrets. The European Communities suggested a paper by the Secretariat on the WTO jurisprudence on BOP matters. After discussions, the Committee agreed in principle to the Secretariat preparing the two papers as suggested by India and the EC.** The Chair expressed her readiness to hold consultations with delegations that had an interest/concern in any or both the papers. We registered our interest in being consulted before any final outline of the paper we had suggested was agreed to. The Committee also agreed on a communication to be sent by the Chairperson to the Chairman of the Committee on Trade and Development concerning S&D treatment in relation to BOP issues. The United States raised the issue of transitional review mechanism provided under paragraph 18 of the Protocol of Accession of China to the WTO. The US agreed to come back with details of its request in this regard.

- **Committee on Trade in Goods (CTG)**

**Discussions were held on 13/6/2002 on two textile related implementation turrets as well as on major review of the Agreement on Textiles and Clothing (ATC).** The US made a detailed intervention on the implementation issues. EC and Canada also stated that they have fulfilled their obligation under the ATC. **The restraining countries expressed disappointment on the responses of the restraining countries on textile turrets as well as the manner in which developmental issues were being dealt**

**in the post Doha phase.** Honduras, El Salvador, Bangladesh stated that they would need to study the statement made by the US and Canada. The Chairman stated that he would continue with informal consultations on the implementations proposals as well as major review of the ATC. No substantive discussions were held on the second major review of the ATC.

- **Working Group on Transfer of Technology**

At the second formal meeting held on 11/6/2002, Brazil and China shared with members their experiences on technology transfer. Brazil highlighted that in most countries R&D flows are financed mostly from public funds. Brazil's experience, increase in FDI flows did not lead to enhance in the level of Transfer of Technology. China said that import of technology is mostly regulated by the State. The Chairman suggested a work programme for the working group. Developing countries wanted some aspect of the programme to be flushed out. Developed countries, however, objected to the reference to any possible recommendations referred to in the work programme, based on the mandate given in Doha. The Chairman will hold further consultations.

- **Special Session on Environment**

Further discussions were held on 11-12 June, 2002 on Relationship between WTO Rules and Multilateral Environmental Agreement was held. The discussion is still in the realm of interpretation of the mandate given by Ministers at Doha. Committee on Trade & Environment also met on 13 & 14 June, 2002. The topic of focus for discussion was TRIPs (Trade-Related Intellectual Property Rights) & CBD (Convention on Bio-Diversity) on which India stated its position. The statement was supported by Brazil and several other developing countries. The countries on the other side, such as USA, EC, Japan, etc. repeated their well known stance. **India also presented its paper on the Effects of Environmental Measures on Market Access specially in relation to developing countries, in particular the least developed**

among them. There was a favourable response to this paper.

- **Committee on Trade & Development (CTD) — Special Session**

Paraguay introduced a new proposal on Enabling Clause. Thailand introduced a proposal on Import Licensing and St. Lucia on Article 18C of GATT. **Paraguay had pointed out in its proposal that the way preferential tariff treatment is being accorded by developed countries is not consistent with the basic conditions that such schemes should be generalised, non-reciprocal and non-discriminatory. The proposal by Paraguay was welcomed strongly by Philippines, Thailand, Argentina, Cuba and India.** Developed countries were, however, not in favour of the proposal. Many developing countries also were not in favour and said that differences in levels of development among developing members should be factored into the various preferential schemes. There was a brief discussion on the papers by the Africa Group and the LDCs. The Chairman informed members that he will be holding informal consultations on how to progress the work further in the CTD-SS. A Special Session of CTD was held on 18, 26 & 27 June, 2002 to discuss how to move forward in the work of the Special Session in view of the deadline of 31 July. Developing countries were in favour of substantive discussions on specific proposals, with a view to coming up with clear recommendations for decision. The QUAD did not favour such an approach and was more keen in getting the deadline extended.

- **Technology Barriers to Trade (TBT)**

A formal meeting of the Committee on TBT was held on 20 June. Prior to formal meeting, informal consultations were held on June 19 on technical assistance programme and labeling. EC also introduced its paper on labelling. Further informal consultations will take place on the issue of labeling before the November meeting of the Committee. In the formal

meeting, members made statement on implementation and administration of the TBT Agreement. Thanking India for notifying labelling measures to the TBT Committee, the US sought assurances whether its concern would be considered by Indian authorities. India also introduced its proposal on outstanding implementation issues as per Doha mandate. Malaysia and Egypt supported the broad thrust of India's proposals. Discussions were held on outstanding implementation proposals in the informal meeting as well. On technical assistance questionnaire, the deadline for submitting it was extended to July 31, 2002. It was also agreed to hold half a day workshop on technical assistance in the margin of November meeting.

- **GATS Rules**

Discussions were held on safeguards, government procurement and subsidies under the GATT Agreement on Trade in Services (GATS) Rules on 3, 4 & 7 June, 2002. The possible elements of work programme of the working party were also discussed. Chile led by some other members wanted a work programme on subsidies; EC reiterated the need for a work programme on GP. No final decision could be taken up on the work programme. The Chairman stated that he will hold further informal consultations and thereafter would circulate a paper under his responsibility containing possible elements before the next formal meeting.

- **Meeting with Chairman, General Council - Plurilateral**

The Chairman discussed procedures for appointment of the next Director General with the Ambassadors/PRs of Australia, Uruguay, Turkey, Jamaica, Hungary, Kenya, Colombia, Singapore, Gabon, India, Philippines, Ecuador and South Africa. The issues discussed included qualifications for DG, how candidates are to be nominated, possibility of rotation between developing and developed countries or geographical regions, term of office, need for an advisory committee and whether a deadlock breaker is feasible.

- **Committee on Subsidies & Countervailing (CSC) measures**

Discussions were held on 3 June, 2002 on classification issues relating to legal services, postal and energy sector. The Secretariat note on incorporation of new commitment into members' schedule was also discussed. It was suggested that Secretariat prepare a compendium of proposals on classification issues taken from negotiating proposals for ease of reference.

- **Dispute Settlement Body (DSB)**

DSB on 3/6/2002 established at EC request a panel on *US - Steel Safeguard Measures*. As US opposed the Japan and Korea's requests for establishment of panels on the same matter, the DSB agreed to revert to them at its next meeting. DSB also established a panel at the US' request on *Japan - Apples* (DS245). At the parties request the DSB postponed consideration of Brazilian request for retaliation under DSB Article 22.2 in the dispute *Canada - Aircraft* (DS222). At a DSB meeting on 7/6/2002 As the US opposed, the DSB could not establish a panel on *US - Steel Safeguard Measures* at China request and agreed to revert to it at the next DSB meeting. As there was no agreement on the panellists proposed by the Secretariat to replace the Brazilian panelist, who was unable to serve on Article 21.5 *Bedlinen* panel, the WTO Secretariat proposed two more names. While we conveyed our acceptance to either of them (Argentinean or South African), EC vetoed them saying that they do not have the profile of former Brazilian panellist from. Secretariat was asked to propose another slate of panellists. DSB on 14/6/2002 established panels at Japan and Korea requests on *US - Steel Safeguard Measures* agreed to refer them to the panel established on the same matter at the EC's request on 3-06-02. As the US opposed Norway and Switzerland's requests for establishment of panels, DSB agreed to revert to them at its next meeting. At another regular meeting on 24 June the DSB established a Panel at our request on *US - Rules of Origin*

(DS243). DSB also established panels at China, Norway and Switzerland's requests on *US - Steel Safeguard Measures* and agreed to refer them to the panel established at EC's request on 3-6-02. As Canada objected to Brazilian request for retaliation in *Canada - Aircraft* dispute, DSB referred the matter to arbitration under Article 22.6 of the DSU. The WTO Secretariat also sought our views/general criteria on selection of panellists to serve on the dispute *US - Rules of Origin* (DS243). We expressed preference for generalists, legal advisers, diplomats, trade policy people, academicians with previous panel experience and atleast one panellist from developing country. US preferred to have atleast two experts or expert lawyers on rules of origin as against generalists; US would be generally skeptical of academicians as panellists, however, they could consider them on case by case basis. They do not want panellists from the countries, who have taken positions on rules of origin. When we asked them to identify those countries, they said they would do so as the selection process go on.

- **Working Group on Implementation (Anti-Dumping Committee)**

Further discussion on Article 15, AD Agreement was held on 18/6/2002. In absence of reaction from those who have concerns on the proposal, no substantive discussion took place. India, Brazil, Colombia and Chile asked the Chairman to informally consult with Members to find ways to make progress in this matter.

- **Working Party Meeting of Russia's Accession to the WTO**

An overview was given by Russia on 20/6/2002 of the status of its bilateral contacts. Members while continuing to support the early accession of Russia nonetheless expressed their concern at the existence of non-tariff measures and urged Russia not to link their reduction commitments in domestic support with tariff negotiations.

● **Working Party Meeting on the Accession of Ukraine**

Detailed examination to determine the WTO consistency of the policies and regulations of Ukraine was undertaken. Ukraine and other members also reported on the status of their bilateral contacts. Members urged Ukraine to speedily incorporate the necessary amendments in its regulations and policies and provide clear documentation of the same. The Secretariat is to prepare a summary based on the checklist of issues submitted by Members for Ukraine to respond.

● **Trade Policy Review Body (TPRB) - Trade Policy Review of Haiti**

The TPRB was scheduled to conduct the first Trade Policy Review of Haiti, but due to unavoidable reasons, it could not be held and got postponed with timing being decided later in consultation with the delegation of Haiti. However, the TPRB met for a brief while and heard from the Chairperson a statement on the issue of impact of General Council Decision of 14 May 2002 on circulation and de-restriction of documents on the TPRB documents. The Secretariat explained the legal position as advised by the Legal Affairs Division. In view of the special circumstances and the press embargo in place on release of TPRB documents till the conclusion of the concerned Review, he proposed holding of informal consultations by the Chairman on this issue. India supported the Secretariat suggestion on consultations and pointed out that the clarification given by the Secretariat in the course of consultations held by the Chairman, General Council prior to the adoption of the 14 May decision was at variance with the advice now given by the Legal Affairs Division with regard to the special status of the TPRB documents. It was agreed that Chair would hold informal consultations with a view to resolving the issue in a more 'universal' fashion. These informal consultations were

supposed to have been held immediately after the TPR of India on the opening day, but since some delegations needed more time, these could not be held.

● **Sanitary & Phytosanitary (SPS) measures**

Prior to formal meeting on June 26-27, informal consultations were held on June 25 on the format for notification of equivalence agreements. Informal consultations were also held on the future work programme on equivalence. In the formal meeting on June 26-27, members raised their specific trade concerns in the area of SPS. The Chairman briefed the Committee on the outcome of the informal consultations on June 24. The notification format for equivalence agreement was adopted by the Committee. On the technical assistance, the Chairman encouraged Members to fill up the questionnaire by July 31. The Secretariat updated the Committee on its technical assistance programme. It was also agreed to hold half a day workshop on technical assistance in the margin of November meeting

● **TRIPs Council**

TRIPs Council discussed TRIPs and Public Health/paragraph 6 of Declaration), GIs, (Geographical Indications) TRIPs & CBD, Traditional Knowledge, Article 27.3(b) and other items. India co-sponsored papers on para 6 of TRIPs & Public Health, TRIPs & CBD & Traditional Knowledge and Extension of Geographical Indications to products other than wines & spirits. At the Special Session on TRIPs held on 28/6/2002, further discussion on establishing a multilateral register for wines & spirits was held.

***(Source: TPD with inputs from PMI / Geneva)***



## MONTHLY REPORT ON MULTILATERAL TRADE ISSUES AND DEVELOPMENTS (JULY 2002)

### ■ Trade Negotiations Committee (TNC) meeting

At the WTO's TNC meeting held in Geneva on 18 & 19/7/2002, there was a review of progress in the various negotiating groups. Developing countries expressed disappointment at the slow progress in all development related issues including implementation issues, S&D issues etc. Dr. Supachai, Director General (Designate) participated in the meeting.

### ■ General Council

Australia presented a paper on Internal Transparency on behalf of 8 countries at the General Council (GC) meeting on 8/7/2002. This was follow up to LMG (Like Minded Group) proposal submitted at the May General Council meeting. Australian paper sought to sanctify the process followed at and in the run up to it. Following the discussion at the meeting, the Chairman said that he will held further consultations. The Chairman briefed members on his consultations on the procedure for appointment of DGs in future. He said that there are differences of views among members on 3 issues: (a) decision making where there is an impasse; (b) the principle of rotation; and (c) the need for an Advisory Committee. In the context of decision making, he mentioned that some members were in favour of trade weighted voting, in case voting is to be resorted to, to break the deadlock. India and Brazil strongly opposed any weighing of votes based on trade. Half of the item on agenda were carried over for the meeting on 31 July by when reports required to be submitted to the General Council by various bodies are expected to be available

Main agenda items of the GC meeting on 31/7/2002 included reports by the Chairman of CTG/CTD-SS/CTD/SCM/CRO on

textiles implementation issues; S&D issues, harmonisation work programme (HWP); work programme on small economies and para 10.3 of Doha decision on implementation issues. Respectively. The report of the CTD-SS was adopted by the GC extending the deadline for completion of work by December 31, 2002. On textiles related issues, developing exporting members maintained that the two proposals remain as unresolved issues in the domain of the GC. The GC took note of the statements made by restraining and restrained member without prejudicing members' position. On the HWP, GC agreed to discuss 12 core policy issues identified by the CRO (Committee on Rules of Origin) in its meeting after the summer break. The GC chairman will be holding consultations to organise the first meeting of the GC on this issue. On EC's waiver request on its special tariff arrangements to combat drug production and trafficking, the GC agreed to revert to it at its next meeting. The discussion was also held on the inter-agency panel report on short-term difficulties in financing normal levels of commercial imports of basic food stuff.

### ■ Working Group on Trade & Investment (WGTI)

Three issues from para 22 namely development provisions, non-discrimination, modalities for pre-establishment treatment based on GATS-type positive list approach were taken up for discussion at the meeting held on 3 & 5 July, 2002. Submissions were made on these subjects by the EC, Japan, Korea, Canada, Chinese Taipei, Mexico. The Secretariat had also prepared background notes on all the three items. UNCTAD also gave a presentation on development provisions. India made detailed intervention on all the three items.

### ■ **Committee on Trade & Development (CTD)**

Implementation of WTO Technical Assistance (TA) plan 2002 was reviewed at the meeting on 1/7/2002. The Secretariat requested members to submit their priority requests for technical assistance to be taken up under its TA Plan 2003 by 31 July 2002. Joint notification of FTA between India and Sri Lanka under Enabling Clause was discussed briefly. India reintroduced its proposal under Article XVIII of GATT (tired 3 of Job (01)/152/Rev.1. Canada gave brief details of its initiative to provide duty-free, quota free access to products from 48 LDCs with effect from 1.1.2003

At the CTD-Special Session on 2/7/2002, the discussion was on predictable lines; developing countries expressing disappointment with lack of progress and meaningful engagement and developed countries trying to push for referring specific proposals to other bodies and for discussions on utilisation, graduation and principles and objectives of S&D. The latter showed no inclination to engage in a substantive discussions on the proposals. The LDCs came up with some specific proposals at the meeting. The Chairman indicated that he will be holding consultations on the various elements that he will be including in the report.

### ■ **Working Group on Competition Policy**

The Second Meeting of the Working Group on Trade & Competition Policy to seek clarification on 'Hard Core Cartels and Voluntary Cooperation' was held on 1-2 July 2002. The occasion was used by us to raise certain questions on the proposals. The study proposed by India on the Cost and Benefits for developing countries of any multilateral mechanism was approved. The WTO Secretariat will get this Study conducted.

### ■ **Panel Chairman & Panel Composition**

The Chairman of the *Bedlinen* 21.5 Panel convened a meeting with parties on 27/2002 on working procedures and timetable for the Panel proceedings. We told that submission of executive summaries was burdensome to us and it was not provided for

in the DSU (Dispute Settlement Understanding). EC agreed with us on this. Then the Chairman suggested to attach the submissions to the Panel report as was done in original *Bedlinen* case. This was accepted. We got confirmation from the Chair as well as the EC of our understanding that the panel proceedings were confidential and business confidential information was different. The Chairman accepted our objection to EC's request for one additional week time for submission of their written submission. Regarding panel composition meeting held on 3/7/2002, pursuant to establishment of a Panel by the DSB on *US - Rules of Origin* (DS243) dispute, the Legal Affairs Division of the WTO sought from parties their preferred criteria for proposing candidates on 26 June 2002. While we favoured generalists with some WTO dispute settlement background and at least one panelist from developing country, US preferred experts on rules of origin with at least two lawyers as panelists. As we would have no objection for nationals of the US and the third parties, provided they were not in government employment, US exercised its option of opposing candidates from disputing parties (that meant that they did not want any US national). Keeping in view these criteria expressed by the parties, the Legal Division proposed certain names for selection of panelists. US opposed all the proposed candidates excepting one from Argentina. We both decided to keep an Argentinean legal adviser on table for further consideration. Legal Division was requested to propose another slate of names for considering them by next week.

The WTO Legal Division on 18/7/2002 proposed three more names. At fourth meeting (third in this month) on panel composition on *Rules of Origin* dispute, both India and US agreed on a Canadian trade law professor Mr. Donald McRae. However, given his age and seniority in trade law field, we suggested making him chairman of the Panel. US said they would consider and revert to this and also on Argentinean legal adviser at the next meeting. US, however, rejected Brazilian, Korean, Mexican and New Zealand candidates.

At the fifth meeting on 25/7/2002 US rejected our suggestion to make Prof. McRae as chairman of the Panel, as he did not have any panel experience. We, however, pointed out to instance of Prof. Jackson being selected as chairman of *Thailand - H Beams* case without such prior experience. US was still considering Argentinean candidate. We requested the Legal Division to provide further names from regions other than Americas

#### ■ **Dispute Settlement Body (DSB)**

At this special meeting, on 8/7/2002, the DSB established at New Zealand's request a panel on *US - Steel Safeguards* and agreed to refer it to the panel already established at EC and others request on the same matter. DSB on 29/7/2002 adopted panel report on *US - CTL Steel Plate from India (DS206)*. We made a statement. Similarly, US and Chile made statements on the panel report. While Chile withdrew its panel request on *Peru - Tax Treatment of Imports (DS255)*, DSB established panels on *US - Steel Safeguards* at Brazil's request and on *Turkey - Fresh Fruit (DS237)* at Ecuador's request. While Turkey and Ecuador informed that they would delay the panel composition as they were trying to reach a solution, the DSB referred Brazilian complaint to the panel already established at EC and others requests on *US Steel Safeguard* measures. US presented status reports on *Copyright* and *1917 AD Act* disputes. EC and Japan warned that if US did not act fast and withdraw court case against their companies in the US courts under the 1916 AD Act, they would invoke retaliation proceedings.

#### ■ **Special Session of DSB**

Australia, Korea and Ecuador formally introduced their proposals at the Special Session of DSB on 15 & 16/7/2002. Costa Rica circulated its proposals on third party rights at the meeting. Members made only preliminary remarks on these proposals. We made brief statements on Australia and Ecuador proposals and a lengthy statement on permanent body of panelists and amicus proposals of the EC. In the informal meeting the Chair's proposal to hold issue wise discussion on

the proposals was agreed.

#### ■ **Negotiating Group on Rules**

Second substantive meeting of the Rules Negotiations Group was held on 8-10 July 2002. A significant proposal on possible elements of strengthening Anti-Dumping Rules was submitted by Japan and others. EC also submitted a proposal. There was not sufficient engagement on part of the US which is a major user of the instrument.

#### ■ **TRIMs**

Discussions were held on 10/7/2002 tirets 37-40 of the job document (02)/152/Rev.1. India and Brazil indicated that they might be submitting papers in advance of the next TRIMS committee meeting further outlining their proposals.

#### ■ **Working Group on Trade, Debt and Finance**

Discussions in the meeting held on 11/7/2002 which centered on the presentations made by UNCTAD, OECD and the ADB.

#### ■ **Integrated Framework Steering Committee (IFSC)**

The 5<sup>th</sup> Session of the Integrated Framework Steering Committee (IFSC) was held on 12<sup>th</sup> July 2002. LDCs shared their experiences of the implementation of IF Scheme. Cambodia made a detailed power point presentation on the role and contribution of IF in their country. The issue of association of non-LDC members with the IF process was also discussed. Kenya had earlier requested for the extension of the IF process to non-LDC low-income countries. A decision in this regard will be taken in due course. The issue of diversifying the application of IF Trust Fund (IFTF) for some other activities was also discussed. Currently IFTF is used mainly for conducting Diagnostic Trade Integration Study (DTIS) which is the first step in the IF process. The IF core agencies (ITC, IMF, UNCTAD, UNDP, World Bank & WTO) also shared their experience on the execution of IF scheme.

#### ■ **Working Party on GATS Rules (WPGR)**

The work programme of the Working Party was adopted on 15/7/2002 on an ad-referendum basis after making some

changes in Chairman's draft. Under ESM, discussions continued on Australia's 'core mechanism' approach. Discussions were also held on the safeguard provisions in the EC Treaty as well as its FTA/PTAs with other countries. Under Subsidies, Chile, HKC, Argentina submitted a revised questionnaire (Job(02)/84) to compile information on subsidies given by members in the trade in services. The Secretariat was asked to update its previous note on subsidies related information taken from TPRs. Under government procurement, EC introduced its new submission.

#### ■ **Working Party on Domestic Regulation**

The review of informal secretariat updated paper on examples of measures to be addressed by disciplines under GATS Article VI:4 was taken up. Discussion focussed on transparency aspects. There was no consensus on the indicative benchmark of March 2003 for arriving at some common elements, which could form the basis of future disciplines. The review of synthesis paper of the results of Members' domestic consultations with the professional services was also initiated. The issue of procedures for Secretariat holding consultations with international professional association was discussed.

#### ■ **Sub-Committee on LDCs**

The Twenty Ninth session of the Sub-Committee on LDCs was held on 16<sup>th</sup> July, 2002. The meeting was held back-to-back with the WTO Seminar on Accession held on 15-16 July, 2002. The basic theme of the Session was the accession of LDCs to the WTO. A number of LDCs, including the ones in the accession process, shared the experience of their engagement in the WTO. They noted the complexity of the accession process and felt the need for streamlining and simplifying the same for LDCs. There was also a general feeling that acceding members are required to assume so called WTO plus commitments i.e commitments which go beyond the requirements of the WTO.

#### ■ **Committee on Trade in Services**

The proposal for technical review of Article XX:2 of GATS was taken at this Special Session on 17/7/2002. As requested at

the June CTS meeting, the Secretariat had come out with a brief note on the negotiating history of Article XX:2. HKC, Japan, Switzerland underlined the need for clear understanding on this provision. HKC made a detailed intervention suggesting changes in scheduling convention. Further informal consultations will be held in October on HKC's proposal as well as the Secretariat's note.

#### ■ **Committee on Trade in Services - Special Session**

A paper on assessment on services was submitted by Thailand. The submission invited preliminary comments from members. On the modalities for autonomous liberalisation, the Chairman reported on the outcome of last informal consultation and that he would be holding further informal consultations with individual delegation or in group to identify flexibility so that he could come up with revised text in due course. The Chairman suggested that members should aim to finalise these modalities by the October, 2002 Services meeting. The modalities for treatment of LDCs were also discussed. The Secretariat was asked to prepare a check- list of issues for such modalities to facilitate further discussion. Only one new negotiating proposal was introduced on computer services by the EC.

#### ■ **Committee on Subsidies and Countervailing**

The Secretariat's note on the incorporation of new commitments into members' GATS schedule as well as Secretariat informal note Job (02)/88 was discussed. There was a broad consensus that consolidation approach was the best way to proceed forward. The Secretariat was requested to consolidate members' schedule by December 2002. The issues viz. legal status of previous commitments; verification of consolidated schedules; editorial conventions were discussed. These issues would be further taken up at the next meeting of the CSC. The EC introduced its new submission on classification of computer services.

#### ■ **Meeting of the Negotiating Group on Market Access**

The meeting on 19/7/2002 adopted the work programme agreed upon. The date of the first meeting was fixed for the

2<sup>nd</sup> August 2002.

#### ■ **Committee on Trade in Financial Services (CTFS)**

Under agenda item on 'recent trends in financial services trade', Canada, Chinese Taipei and Mexico gave presentations on their regulatory practices on transparency in the financial sector.

#### ■ **Committee for Trade in Goods**

Discussions were held on 22-23 July, 2002 on Trade Facilitation against the backdrop of Secretariat Paper as well as papers by EC, Canada, Hong Kong China, Korea, USA and Japan. While all delegations agreed that it was desirable to further trade facilitation, developed country members sought an enhancement of Articles VIII & X. The committee considered the Agenda item on the review of the operation of the TRIMS Agreement under Article 9 and took note of the report of the Chairman of the TRIMS Committee. Canada also made an announcement that they would be providing duty free market access to LDCs for all things except dairy products, poultry, eggs etc. as of 1<sup>st</sup> January 2003. It was also stated that a provision had been made for an additional 20 million Canadian \$ to Africa under technical assistance.

#### ■ **Subsidies & Countervailing measures (SCM)**

It was the last meeting (held on 25/7/2002) to consider Indian and Brazilian proposals on CVD issues. There was no agreement on any proposal. No recommendation could even be made on future work Programme. The deadline for examination of this proposal has lapsed on 31/7/2002. We expressed disappointment over the inability of the SCM Committee to resolve these issues. It now remains on us to take these issues to the Rules Negotiation Group.

#### ■ **Trade Policy Review (TPR) of EU**

The sixth Trade Policy Review of European Union was conducted at the WTO during 24 & 26 July, 2002. While EU's contribution towards trade liberalisation and development also their efforts for the successful conclusion of the Doha

Conference were commended by all member countries, concerns were raised by delegations specifically on high protection prevalent in agriculture and fishery sectors, back loading of textiles quotas, indiscriminate use of trade remedial measures and burdensome technical regulations and social policies. Active participation from members could be gauged from the fact that more than 700 written questions were posed to the delegation under review. EU during the review, inter alia, noted that the need for CAP reforms arises not only from the Doha mandate but also from the domestic compulsions i.e., EU enlargement plans

#### ■ **Committee on Customs Valuation**

The meeting was held on 26/7/2002 to discuss the revised programme of a seminar on technical assistance to be held in November 2002. Since there were no substantive discussions the outcome was conveyed through an e-mail message to Department Of Revenue and Commerce.

#### ■ **Council for Trade in Goods (CTG)**

On textiles item, the major review report was adopted by the CTG on 23 & 30/7/2002. On agenda item on transparency (US-Turkey restriction) the Chairman noted that his informal consultation have resulted in greater understanding on some of the issues involved. On Doha implementation issues, the restrained members (India, Pakistan, HKC) made detailed intervention rebutting main arguments of restraining countries namely adoption of proposals would require amendments in the ATC; acceptance of such proposals would change the balance in the ATC; imports have been rising hence ATC implementation is on track. Regarding CTG report to General Council, the Chairman reported that in the absence of an agreed report he would be making an oral statement under his own responsibility at the GC meeting on July 31.

***(Source: TPD with inputs from PMI / Geneva)***



## PARLIAMENT BRIEFS

### **PATENT GRANTED TO INDIAN INNOVATIONS**

Patents are granted under the sovereign prerogative of countries according to their respective patent laws and have territorial effect, that is, they are effective only in the country of grant. Applications for patents are made and pursued by inventors, including Indian inventors, in different countries as per the patent law of country concerned, depending upon the interests of inventors. Information about patents being granted by the United States Patent and Trademark Office and applications pending with that office is not maintained. The information about grant of patents is published by patent offices concerned. As and when information is received about patents being obtained on certain items which are not considered patentable and which affect Indian interests, steps are taken to assess whether the grant of such patents can be challenged under the patent law of the country concerned.

### **ANTI - DUMPING ON INDIAN STEEL**

In December, 1999 the US Department of Commerce issued the final determination and imposed an anti-dumping margin of 72.49% on the sole Indian respondent, Steel Authority of India Ltd. (SAIL). While doing so the US Department of Commerce rejected SAIL's data in totality, and had relied on facts available in the petition of the domestic industry and calculated the dumping margin. The Government of India had referred the matter to WTO against the rulings of the US, since the rulings violated certain WTO commitments. The Panel set up by the Dispute Settlement Body of WTO has concluded that the United States acted inconsistently with Article 6.8 and paragraph 3 of Annex II of the Anti-dumping Agreement in refusing to take into account US sales price information submitted by SAIL without a legally sufficient justification and making its determination regarding the dumping margin for SAIL entirely on the basis of the facts available in the anti-dumping investigation at issue in this dispute. The panel has recommended that the Dispute Settlement Body request the United States to bring its measure into conformity with its obligation under the Anti-dumping Agreement. The Panel Report is presently under circulation. The Disputed Settlement

Body of WTO has to adopt the report before any of its recommendations is implemented.

### **INDIA'S TRADE POLICY**

Under Annex 3 of the Marrakesh Agreement establishing the WTO, the trade policies and practices of all the World Trade Organisation (WTO) Members are subject to periodic review. Under this provision, India's third trade policy review took place in WTO in Geneva on 19 and 21 June 2002 by the Trade Policy Review Body, which is composed of representatives of all the WTO Members.

The Trade policy review meeting discussed India's trade policies and practices under three broad headings, namely, economic policies; trade policies regime; and sectoral policies. The discussions during this review was primarily based on two reports—one prepared by the WTO Secretariat and the other by the Government of India. The Commerce Secretary led the Indian delegation for this review meeting. The other members of the delegation were the concerned officers of the Trade Policy Division of the Department of Commerce, an officer from the office of the Director General of Foreign Trade, an officer from the Department of Economic Affairs and two officers from the Reserve Bank of India. The officers of the Permanent Mission of India in Geneva also constituted part of the delegation during the review meeting.

As per the data of world trade in the Annual Report 2002 of the World Trade Organisation (WTO), in the year 2001, some Asian countries/customs territory, namely, Japan, China, Hong Kong China, Republic of Korea, Chinese Taipei, Singapore, Malaysia, Saudi Arabia, Thailand and Indonesia had a higher share of export in world merchandise trade than India. The figures of exports from Hong Kong China and Singapore also include re-exports. In 2001, India's share of export in world merchandise trade was 0.7% and its share of import in world merchandise trade was 0.8%.

The steps taken by the Government in the Export-Import Policy 2002-07 to increase India's share in world trade include reduction of transaction time & costs; procedural simplification

and enhancement of transparency in the export promotion schemes; special schemes for status holder, small scale industry and units located in disadvantage zones such as North East, Sikkim, Jammu & Kashmir; special Schemes for export in the country's core sectors such as agriculture, textiles, leather, Gems & Jewellery, Chemicals and pharmaceuticals and electronic hardware; diversification of export markets by revamping the focus Africa, focus LAC (Latin American Countries) & focus CIS (Commonwealth of Independent States) schemes; notification of three towns of export excellence and 28 agri export zones and continuance of the Duty Entitlement Passbook Scheme along with the removal of value cap on 429 items. To enhance India's merchandise export, the Government has also announced a Medium Terms Export Strategy (MTES) for the period 2002-2007. The MTES makes an opportunity assessment after examining both the import baskets of the major trading countries and India's export basket and arrives at focus products and focus markets for India. This would facilitate a more favourable trading environment to enable Indian export community to achieve higher growth rates in the global trade. It suggests key macro strategies and sector-wise strategies for India's export growth

#### **CHINA'S CO-OPERATION FOR MULTILATERAL TRADE**

The Federation of Indian Chambers of Commerce & Industry (FICCI) signed a Memorandum of Understanding with the Shanghai WTO Affairs Consultation Centre (SCCWTO) on May 11, to establish a collaborative mechanism in the field of WTO related matters and policies. During the meeting with the SCCWTO, FICCI had proposed a five point cooperation programme to address the issue of level of playing field for developing countries in terms of market access, reduction of tariffs in developed countries, agricultural subsidy, Singapore issues including investment, competition policy, and links between trade and environment & labour standards. Representatives of the SCCWTO had shown interest in the above proposals but the reaction of the Chinese Government is not known in this regard.

#### **IMPACT OF FOREIGN BUSINESSMEN ON DOMESTIC INDUSTRIES**

Foreign businessmen do not get any preferential treatment

as compared to domestic investors. There is a level playing field for both domestic and foreign investors. The entry of Foreign Direct Investment (FDI) has made the domestic industry more competitive in terms of productivity, technology, etc. Besides many domestic players are entering into financial/technical collaboration, strategic alliance, etc., with foreign companies. Nearly, 80% Foreign Investment approvals are for joint ventures.

#### **STUDY ON ILL-EFFECTS OF WTO AGREEMENT**

India is a founder member of the WTO which came into being on 1.1.1995 as a successor to the General Agreement on Tariff & Trade 1947 (GATT), of which also India was a founder member. WTO provides a predictable rule based multilateral trading system, which protects the developing countries from the bilateral pressures of the developed trading partners. However, experience in implementation of WTO agreement has brought out a number of implementation related issues which require satisfactory resolution. These issues broadly related to the inequities and imbalances in the WTO agreements, nonrealisation of anticipated benefits and the non-operational and nonbinding nature of most of the Special and Differential (S&D) provision in favour of developing countries. These issues were highlighted by India through its proposals which were cosponsored by 11 other like-minded group of countries in the preparatory process leading to Seattle Ministerial Conference. After the Doha Ministerial Conference these issues have become an integral part of the WTO Work Programme. India's concerns in the case of WTO Agreement on Agriculture were also flagged in its negotiating proposals submitted to WTO. The Indian Proposals aim at protecting its food and livelihood security and for creating opportunities for export of its agricultural surpluses while targeting the high tariffs and trade distorting domestic support and export subsidies of the developed countries. As a follow up to the Doha Ministerial Declaration and the run up to the scheduled Ministerial Conference in Mexico in 2003, the Government have already undertaken wide ranging consultations with the State Governments and other state holder for finalising its negotiating strategy.



## WTO BRIEFS

- **WTO DG Designate Dr Supachai Panitchpakdi selects deputies**

World Trade Organisation Director-General Designate Dr Supachai Panitchpakdi announced his selection of four persons who will serve as his Deputy Director-General for three years commencing on 1 October 2002. Following consultation with WTO Member Government, Dr Supachai selected the following deputies: Messrs. Roderick Abbott; Dr Kipkorir Aly Azad Rana; Francisco Thompson-Flores; and Rufus H. Yerxa. Dr. Supachai, who takes up his official duties as Director-General on 1 September 2002, hoped that his new deputies would be able to start familiarising themselves with their work in September alongside the current Deputy Director-General, in order to ensure continuity during the transitional period. The current deputies, whose terms of office expire on 30 September 2002, are: Messrs. Ablasse Ouedraogo, Paul-Henri Ravier; Miguel Rodriguez Mendoza; and Andrew Stoler. Dr Supachai expressed his gratitude for the dedication shown by the current Deputy Directors-General and his full confidence in the new team. "I am sure that the new Deputies, together with the current Directors and staff of the WTO, will carry forward the work of the

Organisation very effectively and be able to meet and overcome the many challenges that lie ahead," he said.

- **DG welcomes congressional breakthrough on TPA**

WTO Director General Mike Moore warmly welcomed the breakthrough achieved by the U.S. Congress on legislation to grant President Bush the Trade Promotion Authority (TPA) he needs to negotiate trade agreements. Mr. Moore said the agreement among Congressional leaders, which could lead to passage of the bill by next week, and the well-received U.S. proposal on reducing farm subsidies and tariffs, have given further momentum to the Doha Development Agenda negotiations and keeps those talks on course for completion by the 1 January 2005 deadline. "I congratulate President Bush and U.S. Trade Representative Bob Zoellick as well as the leaders in Congress on this important breakthrough. U.S. leadership is vital to the Doha Development Agenda and passage of this bill in the coming days will lift confidence among the 144 WTO Member Government that we can finish these talks on time," Mr. Moore said. Mr. Moore pointed out that many of the issues being negotiated in the Doha talks have been under discussion and

analysis for five years establishing a solid foundation for the current work which should enable governments to conclude their work on schedule.

"This is not a three-year negotiation. We've actually been negotiating for five years already so there should be no reason to miss the deadline, particularly given the good work we have done since our Doha Ministerial Meeting last November. Since the Doha meeting governments have approved; the structure and timetable for our negotiations, the selection of Cancun, Mexico as the next Ministerial Conference site and a significant increase in funding for technical assistance and capacity building. The progress on TPA and the solid US farms proposal to be tabled in Geneva next week build on that work. All of this puts us in very good position to wrap these talks up on time," Mr. Moore said.

- **WTO Agreements and public Health - A joint study by the WHO and the WTO Secretariat**

The world Health Organisation and the World Trade Organisation Secretary have published a joint study of the relationship between trade rules and public health. The 171 page study WTO Agreements and Public Health explains how WTO Agreements relate to different aspects of health policies. It is meant to give a better insight into

key issues for those who develop, communicate or debate policy issues related to trade and health. The study covers areas such as drugs and intellectual property rights, food safety, tobacco and may other issues which have been subject to passionate debate. In this joint effort, the first of its kind, WHO and the WTO Secretariat endeavour to set the facts. In their foreword, Dr. Gro Harlem Brundtland, WHO Director-General, and Mr. Mike Moore, WTO Director-General, confirm that "there is much common ground between trade and health." But they also send the message that "health and trade policy-makers can benefit from closer cooperation to ensure coherence between their different areas of responsibilities." The study explains that countries have the right to take measures to restrict imports or exports of products when this is necessary to protect the health of human, animals or plants. When liberalising services, they retain the right to regulate in order to meet national policy objectives, in areas such as health. Eight specific health issues are covered - infectious disease control, food safety, tobacco, environment access to drugs, health services, food security as well some emerging issues, such as biotechnology - and, in each case, examples of challenges and opportunities in implementing coherent trade and health policies are provided.

## SCHEDULE OF MEETINGS AT THE WTO/GENEVA\* AUGUST - SEPTEMBER 2002

August			
		17-19	Council for Trade-Related Aspects of Intellectual Property Rights
1	Textile Monitoring Body		
2	Negotiating Group on Market Access	18	Working Group on the relationship between Trade and Investment
September			
		20	Special Sesion of the Council for Trade-Related Aspects of Intellectual Property Rights
2&3	Special Session of the Committee on Agriculture	23	Committee on Market Access
4	Special Session of the Committee on Agriculture	23-25	Special Session of the Committee on Agriculture
10&11	Special Session of the Dispute Settlement Body	23	Trade Policy Review Body - Australia
11	Trade Policy Review Body - Mauritania	24	Committee on Import Licensing
12&13	Negotiating Group on Market Access	25	Trade Policy Review Body - Australia
12	Working Party on the Accession of Nepal	26	Committee on Agriculture
13	Trade Policy Review Body - Mauritania	26&27	Working Group on the Interaction between Trade and Competition Policy
13	Workshop on Trade and Investment		
16	Special Session of the Committee on Trade and Development	27	Special Session of the Committee on Agriculture
16-18	Textiles Monitoring Body	30&1	Committee on Customs Valuation
16&17	Working Group on the relationship between Trade and Investment	30	Working Group on Trade, Debt and Finance

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