

### UNIT III

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What Is the General Agreement on Tariffs and Trade (GATT)?

The General Agreement on Tariffs and Trade (GATT), signed on Oct. 30, 1947, by 23 countries, was a legal agreement minimizing barriers to international trade by eliminating or reducing quotas, tariffs, and subsidies, while preserving significant regulations.<sup>1</sup> The GATT was intended to boost economic recovery after World War II through reconstructing and liberalizing global trade.

The GATT went into effect on Jan. 1, 1948.<sup>2</sup> Since that beginning it has been refined, eventually leading to the creation of the World Trade Organization on January 1, 1995, which absorbed and extended it.<sup>3</sup> By this time 125 nations were signatories to its agreements, which covered about 90% of global trade.<sup>4</sup>

The Council for Trade in Goods (Goods Council) is responsible for the GATT and consists of representatives from all WTO member countries.

The General Agreement on Tariffs and Trade (GATT) was signed by 23 countries in October 1947, after World War II, and became law on Jan. 1, 1948.

1. The GATT's purpose was to make international trade easier.

2. The GATT held eight rounds in total from April 1947 to December 1993, each with significant achievements and outcomes.<sup>6</sup>

3. In 1995 the GATT was absorbed into the World Trade Organization (WTO), which extended it.

#### **Understanding the General Agreement on Tariffs and Trade (GATT)**

The GATT was created to form rules to end or restrict the most costly and undesirable features of the prewar protectionist period, namely quantitative trade barriers such as trade controls and quotas. The agreement also provided a system to arbitrate commercial disputes among nations, and the framework enabled a number of multilateral negotiations for the reduction of tariff barriers. The GATT was regarded as a significant success in the postwar years.

One of the key achievements of the GATT was that of trade without discrimination. Every signatory member of the GATT was to be treated as equal, and it has been carried through into the WTO.<sup>8</sup> A practical outcome of this was that once a country had negotiated a tariff cut with some other countries (usually its most important trading partners), this same cut would

automatically apply to all GATT signatories. Escape clauses did exist, whereby countries could negotiate exceptions if their domestic producers would be particularly harmed by tariff cuts.<sup>9</sup>

Most nations adopted the most-favored-nation principle in setting tariffs, which largely replaced quotas. Tariffs (preferable to quotas but still a trade barrier) were in turn cut steadily in rounds of successive negotiations.

### **History of the General Agreement on Tariffs and Trade (GATT)**

The GATT held eight rounds of meetings between April 1947 and December 1993. Each of the conferences had significant achievements and outcomes.

1. The first meeting was in Geneva, Switzerland, and included 23 countries. The focus in this opening conference was on tariffs. The members established tax concessions touching over US\$10 billion of trade around the globe.

2. The second series of meetings began in April 1949 and were held in Annecy, France. Again, tariffs were the primary topic. Thirteen countries were at the second meeting and they accomplished an additional 5,000 tax concessions reducing tariffs.

3. Starting in September 1950 the third series of GATT meetings occurred in Torquay, England. This time 38 countries were involved and almost 9,000 tariff concessions passed, reducing tax levels by as much as 25%.

4. Japan became involved in the GATT for the first time in 1956 at the fourth meeting along with 25 other countries.<sup>11</sup> The meeting was in Geneva, Switzerland, and again the committee reduced worldwide tariffs, this time by US\$2.5 billion.

This series of meetings and reduced tariffs would continue, adding new GATT provisions in the process. The average tariff rate fell from around 22%, when the GATT was first signed in Geneva in 1947, to around 5% by the end of the Uruguay Round, concluded in 1993,

In 1964 the GATT began to work toward curbing pricing policies .

### **GATT Rounds**

#### **Objectives:**

**The objectives of GATT are as follows:**

1. To encourage full employment and large and steadily growing volume of real income and effective demand.
2. To improve the world production and exchange of goods.
3. To ensure the full use of world resources.
4. To ensure a steady improvement in the living standards of people in member countries.

5. To settle the disputes through consultation within the framework of GATT.

For the achievement of these objectives, the preamble of the GATT agreement requires the members to enter into reciprocal and mutually advantageous arrangement directed to the, substantial reduction of tariffs and other barriers to trade and elimination of discrimination treatment in international commerce.

### **GATT Rounds:**

Between 1947 and 1995 there were 8 rounds of negotiations between the participating countries. The first 6 rounds were related to curtailing tariff rates, 7th round included the non-tariff obstacles.

The 8th round was entirely different from the previous rounds because it included a number of new subjects for consideration. This 8th round known as “Uruguay Round” became most controversial. The discussions at this round only gave birth to World Trade Organization (WTO).

### **Round Year Venue Issues and Outcomes**

I 1947 Geneva signature of first GATT agreement

II 1949 Anesi(France) Tariff reductions on specific  
Products

III 1950-51 Torquay Tariff reductions on specific  
Products

IV 1956 Geneva

V 1960-61 Geneva Induction of European goods  
For the first time and 20%  
Reduction

VI 1964-67 Geneva 33%reduction in restricted  
Manufactured goods

### **Dunkel Proposals:**

The 8th round GATT popularly known as Uruguay round was started in September 1986. The negotiations were expected to be concluded in 4 years but on account of differences among participating countries on certain critical areas, agreement could not be reached.

To remove this deadlock Mr. Arthur Dunkel, Director General of GATT, compiled a very detailed document, popularly known as Dunkel Proposals. This proposal culminated into the Final Act on December 15, 1993. India signed this proposal on April 15, 1994. All 124 members the countries signed on this agreement.

## **Defects of GATT:**

**The major defects of GATT are as follows:**

### **1. No Enforcement Authority:**

The GATT has attempted to prescribe an international code of conduct in the sphere of trade. But there was no enforcement authority to oversee the compliance of GATT regulations by contracting parties and to settle their trade disputes.

### **2. Problems in the Formulation of General Rules:**

The members of GATT are much diverse in nature, they are varied in economic and political in framing and implementing uniform general rules of conduct concerning trade, tariffs and payment.

### **3. Less Benefits for the LDC's:**

The most of the members of GATT were in the category of the LDC's. The GATT had provided less benefit to these countries. At present, there are more restrictive trade arrangements in the world. The Commodity-to-Commodity based approach has proved to be detrimental to the interests of LDC's.

This approach creates difficulty in their future planning of production and exports. The GATT also not given any compensation to the less developed countries on account of damage to their economies caused by the actions of developed countries.

### **4. Quantitative Trade Restrictions:**

The GATT had certainly ensured the sealing down of tariff structure but the quantitative trade restrictions remained for a long time outside the GATT ambit. Consequently, the developed countries had used with impunity the quantitative trade restrictions such, as import quotas, export subsidies, voluntary export restraints, health and safety regulation etc.

Even though the 1993, agreement of GATT disapproved the adoption of quantitative trade restrictions and the substitution of tariffs in their place, it did not prohibit the contracting parties from taking recourse to them.

## **WTO**

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

The Uruguay round of GATT (1986-93) gave birth to World Trade Organization. The members of GATT signed an agreement of Uruguay round in April 1994 in Morocco for establishing a new organization named WTO.

It was officially constituted on January 1, 1995 which took the place of GATT as an effective formal, organization. GATT was an informal organization which regulated world trade since 1948.

Contrary to the temporary nature of GATT, WTO is a permanent organization which has been established on the basis of an international treaty approved by participating countries. It achieved the international status like IMF and IBRD, but it is not an agency of the United Nations Organization (UNO).

### **Structure:**

The WTO has nearly 153 members accounting for over 97% of world trade. Around 30 others are negotiating membership. Decisions are made by the entire membership. This is typically by consensus.

A majority vote is also possible but it has never been used in the WTO and was extremely rare under the WTO's predecessor, GATT. The WTO's agreements have been ratified in all members' parliaments.

The WTO's top level decision-making body is the Ministerial Conferences which meets at least once in every two years. Below this is the General Council (normally ambassadors and heads of delegation in Geneva, but sometimes officials sent from members' capitals) which meets several times a year in the Geneva headquarters. The General Council also meets as the Trade Policy Review Body and the Disputes Settlement Body. At the next level, the Goods Council, Services Council and Intellectual Property (TRIPs) Council report to the General Council. Numerous specialized committees, working groups and working parties deal with the individual agreements and other areas such as, the environment, development, membership applications and regional trade agreements.

### **Secretariat:**

The WTO secretariat, based in Geneva, has around 600 staff and is headed by a Director-General. Its annual budget is roughly 160 million Swiss Francs. It does not have branch offices outside Geneva. Since decisions are taken by the members themselves, the secretariat does not have the decision making role that other international bureaucracies are given.

The secretariat's main duties to supply technical support for the various councils and committees and the ministerial conferences, to provide technical assistance for developing countries, to analyze world trade and to explain WTO affairs to the public and media. The secretariat also provides some forms of legal assistance in the dispute settlement process and advises governments wishing to become members of the WTO.

**Objectives:**

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

**Functions:**

1. To implement rules and provisions related to trade policy review mechanism.
2. To provide a platform to member countries to decide future strategies related to trade and tariff.
3. To provide facilities for implementation, administration and operation of multilateral and bilateral agreements of the world trade.
4. To administer the rules and processes related to dispute settlement.
5. To ensure the optimum use of world resources.
6. To assist international organizations such as, IMF and IBRD for establishing coherence in Universal Economic Policy determination.

WTO Agreements: The WTO's rule and the agreements are the result of negotiations between the members. The current sets were the outcome to the 1986-93 Uruguay Round negotiations which included a major revision of the original General Agreement on Tariffs and Trade (GATT). GATT is now the WTO's principal rule-book for trade in goods. The Uruguay Round also created new rules for dealing with trade in services, relevant aspects of intellectual property, dispute settlement and trade policy reviews.

The complete set runs to some 30,000 pages consisting of about 30 agreements and separate commitments (called schedules) made by individual members in specific areas such as, lower customs duty rates and services market-opening.

Through these agreements, WTO members operate a non-discriminatory trading system that spells out their rights and their obligations. Each country receives guarantees that its exports will be treated fairly and consistently in other countries' markets. Each country promises to do the same for imports into its own market. The system also gives developing countries some flexibility in implementing their commitments.

**(a) Goods:**

It all began with trade in goods From 1947 to 1994, GATT was the forum for negotiating lower customs duty rates and other trade barriers;

It all began with trade in goods. From 1947 to 1994, GATT was the forum for negotiating lower customs duty rates and other trade barriers; the text of the General Agreement spelt out important, rules, particularly non-discriminations since 1995, the updated GATT has become the WTO s umbrella agreement for trade in goods.

It has annexes dealing with specific sectors such as, agriculture and textiles and with specific issues such as, state trading, product standards, subsidies and action taken against dumping.

**(b) Services:**

Banks, insurance firms, telecommunication companies, tour operators, hotel chains and transport companies looking to do business abroad can now enjoy the same principles of free and fair that originally only applied to trade in goods. These principles appear in the new General Agreement on Trade in Services (GATS). WTO members have also made individual commitments under GATS stating which of their services sectors, they are willing to open for foreign competition and how open those markets are.

**(c) Intellectual Property:**

The WTO's intellectual property agreement amounts to rules for trade and investment in ideas and creativity. The rules state how copyrights, patents, trademarks, geographical names used to identify products, industrial designs, integrated circuit layout designs and undisclosed information such as trade secrets "intellectual property" should be protected when trade is involved.

**(d) Dispute Settlement:**

The WTO's procedure for resolving trade quarrels under the Dispute Settlement Understanding is vital for enforcing the rules and therefore, for ensuring that trade flows smoothly.

Countries bring disputes to the WTO if they think their rights under the agreements are being infringed. Judgments by specially appointed independent experts are based on interpretations of the agreements and individual countries' commitments.

The system encourages countries to settle their differences through consultation. Failing that, they can follow a carefully mapped out, stage-by-stage procedure that includes the possibility of the ruling by a panel of experts and the chance to appeal the ruling on legal grounds.

Confidence in the system is borne out by the number of cases brought to the WTO, around 300 cases in eight years compared to the 300 disputes dealt with during the entire life of GATT (1947-94).

**(e) Policy Review:** The Trade Policy Review Mechanism's purpose is to improve transparency, to create a greater understanding of the policies that countries are adopting and to assess their impact. Many members also see the reviews as constructive feedback on their policies.

All WTO members must undergo periodic scrutiny, each review containing reports by the country concerned and the WTO Secretariat. **Dispute Settlement Under WTO**

It is a central element in providing security and predictability to the multilateral trading system.

**Overall aim:**

To secure compliance with the agreements.

- Secured access
- Detailed procedures
- Automaticity in the proceedings
- Deadlines
- Possible appeal

**Scope**

**An integrated system**

- Applies to all the multilateral agreements
- Single set of rules for all disputes
- Only a few specific rules in some agreements

**Dispute Settlement in the WTO**

Main players

- Dispute Settlement Body (DSB)
- Panel and Appellate Body
- Parties: WTO members
- WTO Secretariat

**Dispute Settlement in the WTO**

Main Procedures

1. Consultations(60days)
2. Panel(9months)



3. Appellate Body(90days)
4. Implementation(15months)

## **Dispute Settlement in the WTO**

### Main Procedures

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### **1. Consultations**

#### **Consultations: the request**

- Indicates reasons for the request: identification of the measure
- Legal basis for complaint
- Notified to DSB and circulated to all Members.

#### **Consultations: the function**

- To accord sympathetic consideration to and accord adequate opportunity for consultation
- Confidential, only between the members concerned.

#### **Consultations: third parties**

In some instances, other members can request to be joined in the consultations. If consultations fail to resolve the matter within 60 days from receipt of request a request for establishment of a panel can be made.

### **2. Panels**

Panel is formed consisting of well-qualified government and non-governmental individuals.

#### Functions

- Panel should make an objective assessment of the matter and the applicability of and conformity with the relevant covered agreements.
- To preserve the rights and obligations members under covered agreements and to clarify the existing provisions of those agreements.

## **Panel procedures**

- Oral hearings
- Descriptive part of report issued to parties
- Interim review based on draft report
- Final report issued to parties
- Final report circulated to all members.
- Third parties make representations
- Panels may seek factual information from any relevant source, scientific or technical advice from an expert review group Requirement of confidentiality

## **Duration**

As a general rule **9 months** from establishment of a panel to consideration report for adoption

- **12 months** where the report is appealed.
- Adoption **within 60 days of circulation** by negative consensus.

## **2. Appellate Review**

- Appeals limited to issues of law and legal interpretations developed by the panel
- Appeal only open to parties to the dispute.

## **3.Appellate Body**

- 7 members
- Members to have recognized authority and expertise in international trade law
- Members unaffiliated with any government.

The Appellate Body may modify the legal findings and conclusions of the panel.

The report is prepared by reverse consensus within 30 days of circulation to members.

## **4. Implementation**

- Requests for consultations
- Adopted reports
- Mutually agreed solutions
- Adopted compliance reports
- Authorization for suspension.

**The Contents in this E-Material has been taken from the text and reference book as given in the syllabus.**