



INDIA AND WORLD TRADE ORGANIZATION

INTRODUCTION

India has proposed to renegotiate upper tariff limits on certain items at the World Trade Organization (WTO). This comes at a time when the WTO is facing internal and external turbulence in the form of crises faced by its appellate body, emerging trend of deglobalization and the compounding effect of COVID-19. This scenario presents itself both as a challenge and an opportunity for India.

But before we delve into the status of WTO and the prevalent stakes for India, it is important to understand what is WTO and what role is it supposed to play in global trade? Has WTO been successful in playing this envisaged role? How has India benefitted from the role played by WTO, what are the issues that remain unresolved and where does India stand on them? Going forward, what will drive the future of WTO and what steps can India take to safeguard its interests? In this edition, we will try to answer the aforesaid questions.

WHAT IS WORLD TRADE ORGANIZATION (WTO), HOW DID IT EVOLVE AND WHAT ROLE IS IT SUPPOSED TO PLAY IN THE GLOBAL TRADE?

The World Trade Organization (WTO) is the only global international organization dealing with the rules of trade between nations. These rules are governed by a number of WTO agreements, negotiated and signed by the bulk of the world's trading nations which are ratified by their parliaments.

It is the **successor to the General Agreement on Tariffs and Trade (GATT)**, which was the first multilateral free trade agreement created in 1947. The GATT grew out of the Bretton Woods Agreement which had also proposed a specialized agency of the United

Nations (UN) called the International Trade Organization (ITO) which was expected to replace GATT. Although the ITO never materialized, the GATT acted as a provisional agreement and organization liberalizing world trade from 1948 to 1994.

The evolution of these multilateral trading platforms can be traced through the negotiations and outcomes of continuous meetings or rounds which play a pivotal role in shaping their mandate and structure.

Uruguay Round: It was started in 1986 by GATT members when there were calls for a stronger multilateral organization to monitor trade and resolve trade disputes, to extend the trading system into several new areas, notably trade in services and intellectual property, and to reform trade in the sensitive sectors like agriculture and textile. On its **completion in 1994**, the WTO came into being and began operations in 1995. The establishment of WTO integrated several other agreements in addition to the ones under GATT-

MINISTERIAL CONFERENCE (MC)

It is the highest decision-making body of the WTO. It happens every two years and brings together all the members of the WTO. Following can be marked as important MCs where key decisions were taken:-

- **Fourth MC (2001) in Doha, Qatar:** Doha Development Agenda was launched in this Conference.
- **Ninth MC (2013) in Bali, Indonesia:** "Bali Package" was adopted accompanied by a Trade Facilitation Agreement.
- **Tenth MC (2015) in Nairobi, Kenya:** "Nairobi Package" adopted accompanied by abolition of agricultural export subsidies.

- **General Agreement on Trade in Services (GATS)**, which attempted to supervise and liberalize trade in services.
- **Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)**, which sought to improve protection of intellectual property across borders.
- **Understanding on Rules and Procedures Governing the Settlement of Disputes**, which established rules for resolving conflicts between members.
- **Trade Policy Review Mechanism**, which documented national trade policies and assessed their conformity with WTO rules.

Doha Round: After the Uruguay rounds, another round of negotiations was adopted, namely **Doha Development Round or Doha Development Agenda in the 4th Ministerial Conference in 2001**. It covers about 20 areas of trade such as **Agriculture, Services, Trade and environment, Geographical indication etc.** Since then, the negotiations at all Ministerial Conferences (MC) have been centered around reaching a consensus on this agenda.

The primary aim of the agenda is to **provide weight to priorities of less developed countries**. Following can be cited as key developments in this negotiation round:

- The agenda had been discussed in several Ministerial Conferences and WTO meetings before **negotiations were stalled in 2008**. This was due to issues related to agricultural export subsidies of both developed and developing countries, access to patented medicines and difference in the extent of special and differential treatment provided to developing countries.
- Attempts to revive these Negotiations:



- **Bali Package:** The package includes provisions for lowering import tariffs and agricultural subsidies with an aim to provide more market access to developing countries. It addresses areas like food security, Trade Facilitation Agreement and Preferential Rules of Origin for Least Developed Countries (LDCs). The package has also added a **temporary peace clause**.
- ✔ The clause stipulates that no country would be legally barred from food security programs for its own people even if the subsidy breached the limits specified in the WTO Agreement on Agriculture.
- **Nairobi Package:** The package is on similar lines to the Bali Package but the key highlight is that the developing nations will be able to use the **Special Safeguard Mechanism (SSM) for agricultural products**.
- ✔ The SSM allows developing countries to charge additional safeguard duties in case of an abnormal rise in imports or in the event of entry of abnormally cheap imports.

The primary objective of WTO is to **supervise and liberalize world trade**. In order to move towards this objective, WTO abides by the two key principles- one, **commitment to openness** which implies reduction of tariffs as well as limiting quotas, subsidies, and other barriers to trade. And secondly, **non-discrimination**, in which WTO members must treat trade with all other members equally. The objective of liberalization and the application of these principles **lend broadly three purposes** to WTO vis-à-vis Global Trade:



- **Acting as a single international forum for regulating global trade:** The WTO serves as a global entity for standardization of global trade rules and their enforcement through monitoring, negotiations and dispute resolution. Through regulation, WTO:-
 - increases the transparency and trade efficiency in bilateral as well as multilateral trade.
 - provides a forum for cooperation with other major international economic institutions.
- **Protecting the interests of small and weak countries from trade discrimination:** The WTO's **most-favored-nation and national-treatment articles** stipulate that each WTO member must grant equal market access to all other members and that both domestic and foreign suppliers must be treated equally. This protects the vulnerable entities from exploitation and 'thus', indirectly encourages their participation by increasing their confidence in the system.
- **A bulwark of a globalized world order:** The WTO (together with the Bretton Woods Institutions i.e., International Monetary Fund and World Bank) plays an integral part in creating a globalized world order via trade liberalization. This globalized world order envisions **enhanced economic welfare across the globe and reduced geopolitical tensions**.

HAS WTO BEEN SUCCESSFUL IN PLAYING IT'S ENVISAGED ROLE?

The WTO (as it stands now) has been in operation for more than two decades. During this time, following can be cited as the major achievements of the organization:

- **Wide product and geographical coverage:** The WTO encompasses all goods, services, intellectual property as well as some investment policies. Also, the number of member countries and the extent of their participation has grown steadily—the combined share of international trade of WTO members now exceeds 90 percent of the global total. This increases WTO's credibility as a single international regulator.

- ⦿ **Rapid growth in World Trade:** Since 1995, the dollar value of world trade has nearly quadrupled, while the real volume of world trade has expanded by 2.7 times, which far outstrips the two-fold increase in world GDP. Primary reason of this is that the average tariffs have almost halved, from 10.5% to 6.4% during this period. WTO has played a critical role in this tariff reduction.
- ⦿ **Acting as an enabler of domestic reforms:** For many economies that joined the WTO after its creation, accession involved far-reaching reforms and market-opening commitments that research suggests have been associated with a lasting boost to their national income.



- ⦿ **Increased economic efficiency via development of Global Value Chains (GVCs):** The predictable market conditions fostered by the WTO combined with improved communications has enabled the rise of global value chains. Trade within these value chains today accounts for almost 70% of total merchandise trade.

- ⦿ Also, the rise of GVCs has been a key factor in enabling rapid catch-up growth in developing economies, while facilitating increased purchasing power and consumer choice in all countries.

Despite above achievements, the WTO has **often been criticized** on the grounds that infringes upon national sovereignty and promotes the interests of large corporations

at the expense of smaller local firms. Also, several environmental and labour groups have claimed that trade liberalization leads to environmental damage and harms the interests of low-skilled unionized workers. This highlights that the vision propagated by WTO may have some unintended consequences.

In addition to these criticisms, the proliferation of issues like rising trade protectionism, reverse globalization and increasing geopolitical tensions among major economies has reduced WTO's institutional importance. It, in effect, has reduced confidence of smaller countries in WTO and also blocked WTO's role in furthering a more globalized world.

HOW HAS INDIA BENEFITTED FROM THE ROLE PLAYED BY WTO?

India joined WTO from the very beginning in 1995. The timing coincided with domestic economic changes undertaken in the country post the liberalization reforms of 1991. This synchronization between opening of domestic and global economies led to following benefits for India:

- ⦿ **Rise in exports:** According to some studies, India's exports almost doubled in less than a decade, going up from \$26.33 billion in 1994-1995 to \$51.7 billion in 2002-03. For example, the Multi-Fibre Agreement (MFA) of WTO helped increase market access for India in textile and clothing trade.
- ⦿ **Growth in exports of Software Services:** As a consequence of liberalization of trade in services, India has become a world leader in software services which are contributing a lot towards foreign exchange earnings and employment generation. For example, BPO (Business Processing Outsourcing Services) from USA and UK are being delegated to India on a large scale.
- ⦿ **Employment generation:** Global trade works on the principle of comparative advantage (economy's ability to produce a particular good or service at a lower opportunity cost than its trading partners) among countries. To leverage on its availability of cheap and abundant labour, India's financial resources were channeled to more labour intensive sectors like textiles, apparels, leather and leather products and food, beverages & tobacco.
- ⦿ **Poverty alleviation:** A liberal international policy is widely accepted as essential for overall economic growth which in turn, is positively correlated with alleviation of poverty. For instance, there have been sharp decline in poverty rates post 1990s, which coincides with global trade liberalization and improving domestic growth.

WHAT ARE THE ISSUES THAT REMAIN UNRESOLVED IN WTO NEGOTIATIONS AND WHERE DOES INDIA STAND ON THEM?

DOMESTIC SUPPORT IN AGRICULTURE: THE BOXES

In WTO terminology, subsidies in general are identified by “boxes”: green (permitted), amber (slow down – i.e., need to be reduced), blue box (amber box with conditions).

- **Amber Box:** Nearly all domestic support measures considered to distort production and trade (with some exceptions) fall into the amber box. These include measures to support prices, or subsidies directly related to production quantities.
- These supports are subject to limits called “de minimis” levels which generally cap such support at 5% of agricultural production for developed countries, and 10% for developing countries.
- **Blue box:** Any support that would normally be in the amber box, is placed in the blue box if the support also requires farmers to limit production.
- **Green Box:** Green box subsidies must not distort trade, or at most cause minimal distortion. They have to be government-funded (not by charging consumers higher prices) and must not involve price support.
- **Development box:** The type of support that fits into the developmental category are measures of assistance, whether direct or indirect, designed to encourage agricultural and rural development and that are an integral part of the development programmes of developing countries.

- India demands that those who have provided huge subsidies leading to overfishing and overcapacity should take higher cuts in subsidy and capacity and certain developing countries should be exempted from commitments to eliminate fisheries subsidies.

- **Movement of Labour:** The movement of professionals (i.e., labour) from developing countries is constrained by a number of factors such as lack of specific sectoral commitments, lack of mutual recognition of qualifications, lack of transparency in administration of visa regimes, etc.
- India has, therefore, sought liberalization of movement of professionals through removal of such constraints.

- **Access to affordable medicines:** Access to medicines at prices patients can afford has been a recurrent concern for the global community ever since the adoption of TRIPS agreement (which extends protection to Pharmaceutical patents.)

Although, safeguards like compulsory licensing, price controls, and parallel imports are present to address this concern, but overtime it is seen that it has been difficult to avail these exemptions. India being a large generic drugs industry has had several issues in balancing public health concern and patent protection under TRIPS.

- **Agricultural subsidies:** The WTO views India’s Minimum Support Price (MSP) mechanism as a trade distorting measure and places it under **amber box provision of WTO**, meaning it has to be capped at 10 per cent of the total value of the concerned product.

- India has questioned this approach on various counts-
 - ✓ The primary agenda for MSP and other price support mechanism is not export promotion but **food security**.
 - ✓ India has been disputing the calculation methodology under the Agreement on Agriculture at WTO as the subsidy cap is based on foodgrain price levels of 1986-88 whereas the current prices are substantially higher.
 - ✓ India has pointed out that in the absolute sense, developed countries like the US provide almost 90 per cent of world price distorting subsidies under amber box.
- Apart from the price support subsidies, India also provides farm input subsidies for inputs like seeds and fertilizers. It has clearly stated that- it will not accept limits on farm input subsidies at WTO.

- **Fisheries subsidies:** The WTO has been negotiating a pact which aims to eliminate “harmful” fisheries subsidies estimated at \$14- \$20.5 billion annually. This is in line with the efforts to achieve the Sustainable Development Goals 2030. But the subsidies that are being targeted include subsidies for fishing vessels, nets, fuel and other inputs offered to poor fishers in developing countries.

COVID-19 AND THE TRIPS AGREEMENT

A proposal was raised by India and South Africa to temporarily suspend the intellectual property rights around products that would protect, contain, and treat COVID-19. That includes waiving protections for patents – as has been done for HIV treatments.

Supporters of the waiver including several developing countries and NGOs like MSF (Doctors Without Borders or Medecins Sans Frontieres) argue that rich countries like US, EU and Canada are blocking access to critical medicine (allegedly for extracting more profits).

Developed countries along with Pharmaceutical companies have argued that such a move would create wrong precedence and jeopardize future medical innovation, making us more vulnerable to other diseases.

- India has urged the WTO members to "adopt a waiver and permanent revision" to the TRIPS agreement in order "to find a solution that enables a swift and expedient export of pharmaceutical products produced under compulsory license". This revision will not only affect India but will have a global impact as India accounts for about 20% of world's generic medicine production.
- **Non-tariff barriers to trade:** These include Technical Barriers to Trade (TBT) and Sanitary and Phytosanitary Measures (SPS). Issues highlighted in this regard include the irrelevance of foreign standards to local conditions, the lack of timely and adequate information and consequent transaction costs, the difficulties in understanding the requirements and the uncertainty that arises from rapidly changing requirements in overseas market.
- India has been urging towards rationalization and standardization of these non-tariff barriers.
- **Negotiations on Non-trade issues:** Developed countries are pushing for incorporation of non-trade issues like environment and labour standards in the negotiations. The argument put forth by them is that the production of products in developing countries are not being done under proper environment and labour standards.
- India has stated that for the time being, 'non-trade' must be completely kept out of the negotiating table.
- **Recognition of Geographic Indications (GI):** The current trading arrangement does not recognize the GI Tags (and does not provide the associated benefits) domestically provided to goods. It decreases the marketability of the product in the global markets.
- India suggests extension of higher levels of protection to the geographical indications for products like Basmati rice, Darjeeling tea, and Alphonso mangoes at par with that provided to wines and spirits under the TRIPS agreement.
- **Investment Facilitation:** India has its own model investment code which does not allow multinational companies to take the government to international courts before it has sought recourse through the domestic dispute settlement bodies for a period of at least five years. This clause has been contended at various forums.
- India argues that developing countries should be given flexibility for application of TRIMS (Agreement on Trade-Related Investment Measures) in domestic policy while permitting foreign investment.
- **E-commerce:** Almost 75 countries have agreed to commence informal talks on Global E-commerce rules. But these talks are currently happening outside the ambit of WTO thus generating two problems- all the members are not participating in the discussion and also, this would bypass the discussion procedures established at the WTO.
- India has stated that such talks **can obliterate progress on many pending issues on the Doha Development Agenda (DDA)** and any e-commerce talks should be embedded in the **WTO's original digital trade agenda of 1998.**
- **Plurilateral negotiations instead of multilateral negotiations:** Several reports have suggested that the current deadlocks on the issue of subsidies, inclusion of new items etc. should be approached in a plurilateral manner (within a sub-group of countries) if multilateral negotiations are becoming difficult. This approach may end up violating the nondiscrimination principle of WTO.
- India has consistently taken the stand that the launch of any new round of talks should depend on a full convergence of views amongst the entire WTO membership.



WHAT ARE THE FACTORS CURRENTLY AFFECTING THE WORKING OF WTO WITH POTENTIAL BEARING ON ITS FUTURE?



- ➊ **Newer areas of discussion coming to the fore** such as E-commerce and rules of MSMEs (micro, small and medium enterprises), all of which have huge stakes for both developing and developed countries. As a result, the current doctrines, procedures and methodologies have to be revised to incorporate negotiating positions in these newer areas.
- ➋ **Changed Global Economic distributions:** During the Uruguay rounds of negotiation from 1986 to 1993 which resulted in the formation of WTO, developing countries including India did not play a substantial role due to their limited participation. But now, developing countries play a large role in the trading regime. As a result, the operational framework of WTO needs to be revised to take into account this changed economic balance.
- ➌ **Emerging trade war between China and United States:** The emerging trade war between US and China manifests in indiscriminate imposition of tariffs which blatantly violate WTO rules of non-discrimination. This has dented the credibility of the WTO as an organization and resultantly, a situation has been created where member states are actively floating alternatives to WTO.
- ➍ **Dysfunctional WTO appellate body:** In the past four years, the US has been posing obstructions to new appointments to the Appellate Body (AB) of the WTO (Currently, the number of judges stand at 3 instead to a stipulated strength of 7). US has frequently criticized the AB's functioning, alleging "judicial overreach"—which it believes has resulted in unfavorable rulings for the US in its trade disputes. Such obstruction has ceased the functioning of the appeals process, bringing the dispute resolution mechanism to a halt. The AB needs to be restored to its intended strength at the earliest.
- ➎ **Move towards bilateral/regional/plurilateral trading regimes:** Since the pace of negotiations in the WTO has been slowing, countries are increasingly moving towards other forms of trading regimes. Recent creation of Regional Comprehensive Economic Partnership is a case in point.
- ➏ **Effect of COVID-19 Pandemic:** There have been disruptions in the global supply chains as the COVID-19 pandemic has forced countries to impose comprehensive export bans and restrictions. As a result there is potential for more trade disputes to arise in the future. In the current environment, the potential role WTO can play in these disputes remains skeptical.
- ➐ **Threat of waning of globalization:** The WTO is one of the primary enablers of globalization, as the global tendencies shift towards deglobalization and reverse globalization, this will further reduce the international relevance of WTO as an institution.

The developments indicate towards a scenario where WTO may experience a structural change from within or the role played by WTO will gradually shift to other mechanisms. In either case, the global trading regime will experience drastic changes.

WHAT STEPS CAN INDIA TAKE TO SAFEGUARD ITS INTERESTS?

- ➑ **Institutionally linking national goals with global goals:** This will provide India with an opportunity to structurally resolve the perennial dichotomy of national goals vs. international commitments. For example, India can advocate for **creating a special safeguard mechanism for protecting the interests of our small and marginal farmers** by linking them with the **objectives of achieving the Sustainable Development Goals**.

🎯 **Balance between self-sufficiency and comparative advantage:** The idea of self-reliance i.e. Atmanirbhar Bharat will provide India with bargaining power vis-à-vis global trade. But this self-sufficiency needs to be accompanied with capacity development and resource allocation in areas where India has a comparative advantage e.g. labour intensive sectors like textile.

➤ For example, India is not a party to either the plurilateral Trade in Services Agreement (TiSA) or the Information Technology Agreement (ITA-2) being negotiated at the WTO. India should revisit both these agreements and see how it can **leverage its huge strength in the Services sector.**

➤ **Building geo-political capital:** Changing global trading regimes will simultaneously be accompanied by rearrangement of geo-political and geo-economic linkages. India can capitalize on this opportunity by reaching out to countries and create geo-political capital for potential negotiations in the future.

➤ This may also be useful in enhancing market access and strengthening India's global position in case parallel arrangements have to be made alongside WTO.

🎯 **Proactive role in emerging areas:** Clear domestic policy accompanied with unambiguous international stand on emerging areas will help create a basic global framework which is acceptable to India. For example, playing a pro-active role in negotiations related e-commerce etc.

🎯 **Preferring WTO reform over other methods like trading blocs:** The rules-oriented nature of WTO with principles like non-discrimination built into it is suited for a developing country like India. Thus, India should push towards reforms within the WTO framework to strengthen its role globally since India may not have the similar negotiating leverage in multilateral trading blocs outside WTO as was observed during RCEP negotiations.

🎯 **Domestic Reform:** Addressing the structural issues in the economy such as logistical inefficiencies, poor ease of doing business etc. would prepare the economy better for global competition and pave the way for its further opening. For instance, reforms in the Telecommunication Policy in 1999 led to large scale reduction in cost of communication in India.

CONCLUSION

While WTO may not have achieved much by way of forward movement in today's world which is surcharged with competition, one-upmanship and calls for protectionism, its mere presence as a referee has been comforting. But if the WTO as an institution and all the principles that it stands for is to survive and move ahead, there must be no scope for rigidity on the part of any country or group of countries. Negotiations even if cumbersome, painstaking and incremental can be the only solution.

As far as India is concerned, it makes sense to put its weight behind reformation of WTO but simultaneously pursue institutional capacity building at both domestic and global level. Also, the situation is ripe for India to assert its role in global trade, the opportunity if appropriately capitalized could drastically improve India's global standing.



TOPIC AT A GLANCE

INDIA AND WORLD TRADE ORGANIZATION

WORLD TRADE ORGANIZATION: EVOLUTION AND ROLE IN GLOBAL TRADE

The WTO is the only global international organization dealing with the rules of trade between nations. It is the successor of General Agreement on Tariffs and Trade (GATT). The WTO has evolved through negotiation rounds-

- **Uruguay Round (1986-1994):** After the Uruguay round negotiations, WTO came into being in 1995. It added several other agreements like GATS, Agreement on TRIPS, Understanding on Rules and Procedures Governing the Settlement of Disputes and Trade Policy Review Mechanism.
- **Doha Development Round (2001-present):** It was adopted in the 4th Ministerial Conference in 2001. It covers about 20 areas of trade such as Agriculture, Services, Trade and environment, Geographical indication etc. Key developments in these negotiations were:
 - The Negotiations were stalled in 2008 due to issues regarding agricultural subsidies, patented medicines among others.
 - Attempts have been made to revive the negotiations between developed and developing countries through various initiatives like Bali Package and Nairobi Package.

The WTO plays broadly three major roles vis-à-vis world trade:

- Acting as a single international forum for regulating global trade.
- Protecting the interests of small and weak countries from trade discrimination.
- Acting as a bulwark for moving towards a Globalized World Order.

UNRESOLVED ISSUES IN NEGOTIATIONS AND INDIA'S STAND ON THEM

- **Agricultural subsidies issue:** India has taken a stand based on food security, poor estimation methodology for subsidies and subsidies given by developed countries.
- **Fisheries subsidy issue:** India states that developing countries should be exempted from global commitments.
- **Movement of Labour:** India stands on increased liberalization of movement of professionals.
- **Access to affordable medicines:** India seeks revision to TRIPS agreement to improve global access of pharmaceuticals.
- **Non-tariff barriers to trade:** India advocates for their rationalization and standardization.
- **Negotiations on Non-trade issues:** India argues that they should be completely kept out of negotiating table.
- **Investment Facilitation:** India argues that developing countries should be given flexibility in application of TRIMS.
- **E-commerce:** India states that e-commerce talks should be embedded in the WTO's digital trade agenda of 1998.

SUCCESSES OF WTO IN THIS ROLE-

GLOBALLY:

- Wide coverage of both product and geographies.
- Accelerated growth in the global trade.
- Acted as an enabler of domestic reforms for countries.
- Increased economic efficiency via development of Global Value Chains (GVCs).

FOR INDIA:

- India's exports almost doubled in less than a decade.
- Rapid growth in export of Software Services due to liberalization of trade.
- Employment Generation due to growth of labour intensive sectors.
- Poverty alleviation transmitted through economic growth.

FACTORS CURRENTLY AFFECTING THE WTO WITH POTENTIAL BEARING ON ITS FUTURE

- Newer areas of discussion coming to the fore such as E-commerce.
- Changed Global Economic distributions from 1995 in the form of growth in developing countries.
- Emerging trade war between China and United States.
- WTO appellate body has become dysfunctional in the recent past.
- Move towards bilateral/regional/plurilateral trading regimes such as RCEP.
- The effect of COVID-19 has permanently disrupted some Global Supply Chains (GSCs).
- Threat of waning of globalization due trends of reverse globalization among countries.

STEPS THAT INDIA CAN TAKE TO SAFEGUARD ITS INTERESTS

- **Institutionally linking national goals with global goals:** This will help resolve the persistent dichotomy of choosing between national priorities and international commitments.
- **Balance between self-sufficiency and comparative advantage:** Atmanirbhar Bharat should be accompanied with additional focus on comparative advantage areas like the labour intensive sectors.
- **Building geo-political capital to better transition to a changed global trading scenario.**
- **Playing proactive role in emerging areas like e-commerce.**
- **Preferring WTO reform over other methods like trading blocs to safeguard non-discrimination and equity in global trade.**
- **Focussing on domestic reform alongside engaging in global trade for making the economy globally competitive and simultaneously opening the economy further.**