

INTERNATIONAL BUSINESS AND TRADE

UNIT-3

PART-III

Agreement of Uruguay Round and World Trade Organisation (WTO)

The seven agreement of Uruguay round and WTO are as follows: I. Agreement on Manufactured Goods II. Agreement on Agriculture III. Agreement on Trade in Textiles and Clothing (Multi-Fibre Arrangement) IV. Agreement on Trade-related Investment Measures (TRIMS) V. Agreement on Trade-Related Intellectual Property Rights (TRIPS) VI. Agreement on Trade in Services VII. Agreement on Anti-dumping.

I. Agreement on Manufactured Goods:

With regard to manufactured goods other than textiles the developed nations agreed to reduce their tariffs by 40 per cent to an average of 3-8 per cent from the pre-UR level of 3-6 per cent.

II. Agreement on Agriculture:

It was for the first time that agriculture was brought under the GATT purview and major areas were covered by the treaty.

According to the treaty, countries with closed farms are to import at least three per cent of domestic consumption of a product, raising the percentage to 5 over six years. Trade distorting support for farmers is to be cut by 20 per cent in a period of six years for developed countries, and by 13.3 per cent for the developing countries. All non-tariff barriers like quotas are to be converted into tariffs that would be reduced by 36 per cent for industrialized countries, and by 24 per cent for developing countries.

The cuts will be implemented over six years for developed countries and 10 years for developing nations. The value of the direct export subsidies will be cut by 36 per cent over six years, and volume by 21 per cent. The base period is 1986-90 or 1991-92 if exports were higher in that period. The poorest nations, however, will be exempted from farm reforms. Goldin and Winters (1992) have described as how the structural adjustment programmes affect the country dominated by agriculture.

III. Agreement on Trade in Textiles and Clothing (Multi-Fibre Arrangement):

The treaty allows for abolishing the Multi-Fibre Arrangement (MFA) in international textile trade which allows quota restrictions by importing countries largely, the developed nations – on export countries. Beginning in 1995, the MFA is to be erased within a decade so that textile and clothing is integrated into GATT.

All parties to GATT must abide by its textile and clothing agreement to ensure market access, enforcement of policies favouring a fair international climate for trading activities and non-discrimination against imports. Special treatment is envisaged for member nations that are not part of the MFA agreement and for new members and least-developed economies.

IV. Agreement on Trade-related Investment Measures (TRIMS):

The TRIMS agreement aims to remove any TRIMS that is inconsistent with Article III of GATT that provides for national treatment of foreign investment, and Article XI that prohibits quantitative restrictions.

According to it, investment measures inconsistent with GATT provisions are imposing the foreign investors (i) to use local inputs, (ii) to produce for exports as a condition to obtain imported goods as inputs, (iii) to balance foreign exchange outgo on importing inputs with foreign exchange earnings through export, and (iv) not to export more than a specified proportion of the local production. According to Article 5(2) of the TRIMS Agreement, the deadline for the elimination of TRIMS inconsistent with GATT terms is not the same for all countries: the industrialized countries have to eliminate them by 1, July 1997, the developing nations by 2000 AD, and the least developed countries (LDCs) by 2002 AD.

V. Agreement on Trade-Related Intellectual Property Rights (TRIPS):

The agreement on TRIPS aims at introducing fair trade by taking the different standards prevalent worldwide for protection and implementation of Intellectual Property Rights (IPRS) in the areas of copyright, trademarks, trade secrets, industrial designs, integrated circuits, geographical indications and patents.

IPRs with respect to copyright calls for compliance with the Berne convention provisions for protecting literary/artistic productions. Computer programs included under literary works are to be protected. The term of protection for copyrights and rights of performers and producer's

phonograms is to be no less than 50 years. In case of broadcasting organizations, however, the term of protection is to be at least 20 years.

Under the provisions on rental rights, which have been introduced, authors of computer programs and producer of sound recordings will be able to allow or stop commercial renting of their works with regard to the public. The TRIPS agreement mentions the kind of rights that would be recognized as 'trade-mark or service' mark capable of protection.

It also details the rights of trade mark and service mark owners, the use and licensing of these marks and their protection. Regarding intellectual property rights for 'trade secrets', those having commercial significance must be given protection by parties to GATT against a breach of confidence and unfair commercial use. Test data for pharmaceutical and agricultural chemicals must also be given protection from unfair commercial exploitation.

'Industrial designs' will be entitled to a protection for 10 years. Independently created designs that are new or original shall be protected. There is an option to exclude from protection, those designs dictated by technical or functional considerations, as against aesthetic consideration which constitutes the coverage of industrial designs. Protection to layout designs of 'integrated circuits', based on the Washington Treaty on Intellectual Property in report of integrated circuits administered by WIPO, is to be provided for at least 10 years.

The rights concerned would be applicable for articles covering infringing layout designs. Under the geographical indication's obligations, all parties are required to provide the legal means for interested parties to prevent the use of any means in the designation or presentation of a good that indicates or suggests that the good in question originates in a geographical area other than the true place of origin of the good.

The basic obligation in the area of 'patents' is those inventions in all fields of technology, whether products or processes shall be patentable if they meet the three tests of being novel, involving an inventive step, and being capable of industrial application. The patent term provided for in the TRIPS agreement is 20 years. In respect of plant varieties, there is an obligation to provide for protection by patents or by effective sui generis or by any combination thereof. The agreement does not spell out the elements of a sui generis system and it is left to each government to determine the elements which could be deemed to provide effective protection.

A country opting for patent protection for plant varieties will give monopoly on the varieties themselves to the owners of the patents. The farmers cannot retain seeds, and research organizations will use patented seed varieties after paying royalty. But in sui generis form of protection, the patent holder does not have monopoly over the plant variety itself. So, any protected variety can be used by a plant breeder or researcher for further breeding or to produce a different seed variety (breeder's exemption). There is also the farmer's exemption which allows farmers some rights.

The rights provided for farmers allow them to (i) use all seeds and not only those patented by seed companies, and some parts of them for further use, and (ii) exchange seeds amongst themselves as they desire. The researchers can freely use a patented seed to produce a different seed variety. TRIPS provides for compulsory patenting of biotechnological inventions. Patents must also be made available for microbiological processes.

Thus, GATT treaty provides for patenting of drugs and chemicals. Micro-organisms for which patents are to be issued include minute life forms such as bacteria, virus, algae, fungi, as also genes which are used in different areas such as medicine, industry and environment. Under the GATT proposals, a mere discovery of naturally occurring gene sequence cannot be patented.

The parties to GATT are required to comply with the provisions of 1967 Paris Convention. The issue of patents would be non-discriminatory.

However, in addition to the general security exemption which applies to the entire TRIPS agreement, exclusion from patentability is permissible for inventions whose commercial exploitation is necessary to protect public order or morality, human, animal, plant life or health; or to avoid serious prejudice to the environment. Diagnostic, therapeutic and surgical methods for the treatment of humans or animals and plants and animals other than micro-organisms may also be excluded from patentability. The owner of the patent will have all rights to produce, use and sell the patented product.

The patent-owner of a process will have full rights to use it and also use, sell, or import a product obtained directly by that process. However, a patented product or process can be used without the patent-owner's authorization under some conditions. In case of process patents, an identical product would be considered as having been obtained from the patented process if: (i) the identical product is new, (ii) there is much to indicate that it has been obtained as a result of the patented process, and (iii) the patentee fails to determine the actual process.

The TRIPS agreement endorses the creation of a Council for TRIPS to ensure that member countries comply with the provisions of the agreement, and its smooth operation. For its implementation, a transition period of one year has been granted to developed nations, of five years for developing nations and others in the pangs of an economic transition formation, and 11 years for LDCs.

Countries that do not provide product patent in certain areas can delay the provisions of product patents for another five years. However, they have to provide exclusive marketing rights for products which obtain patents after January 1, 1995. The obligations of the TRIPS agreement will be valid for not only the existing but new IPRs as well. All disputes would be settled under the integrated GATT dispute settlement procedures.

VI. Agreement on Trade in Services:

The General Agreement on Trade in Services (GATS) brought, for the first time, trade in services like banking, insurance, travel, maritime transportation, mobility of labour, etc., within the ambit of negotiation. For the purpose of regulating trade in services, the trade has been defined to include four modes of supply: supply through cross-border movement; movement of consumers, commercial presence; and presence of natural persons. The agreement contains three elements: a framework of general rules and disciplines; annexes addressing special conditions relating to individual sectors; and national schedules of market areas commitment.

It is adapted on the basic GATT principles such as MFN (Most Favoured Nation) status to other member nations, non-discrimination, maintenance of transparency and a commitment for liberalization in general terms.

VII. Agreement on Anti-dumping:

The anti-dumping agreement allows anti-dumping measures of an item which is exported at a price much less than its normal value, as such imports would adversely affect the domestic industry concerned in the importing country. The agreement provides criteria to determine that a product is dumped and is responsible for affecting the domestic industry along with the rules involved in any anti-dumping investigation activity.

The agreement specifies the valid time period of any anti-dumping action that is taken. In addition to the above, the Uruguay Round also reached agreements on pre-shipment inspection, rules of origin, import licensing, safeguards, etc. (Sauve, 1994).

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