

WTO and International Trade: An Introduction

Dr. V. Balakista Reddy

Professor of International Law,

Course Coordinator, LL.M (ITBL) and

Head, Center for Air and Space Law

NALSAR University of Law, Hyderabad

E-mail: vbreddy@nalsar.ac.in

www.nalsarl.ac.in

Scheme of Presentation

- What is ITL, Why we have to study ITL and What to study in ITL
- Regulations and Trade Regulations and an overview
- International Trade Regulations before Bretton Woods Conference
- Bretton Woods Conference and the establishment of the IMF and IBRD
- GATT and International Trade Regulations
- The Objectives, Purposes and Principles of the Uruguay Round Negotiations.
- Achievements of Uruguay and the establishment of the WTO and International Trade Regulations

Three Basic Questions

- What is International Trade Law?
- Why We Have to Discuss International Trade Law Today?
- What to Discuss in International Trade Law? (Issues)

What is Int. Trade Law (ITL) ?

- ITL is Branch of Public International Law
- Traditional ITL—Cross border Sale of Goods between States
- Modern ITL --- Cross border Exchanges between the Subjects of International Law
- Scope of the ITL Expanded Due to the Inclusion of New Subjects of ITL

Why We have to Discuss ITL?

- ITL is a New Subject
- ITL is a Broad, Complex and Rapidly Developing Area
- Practical Problems Needs Practical Solutions
- National Laws Drafted with State's Economic, Political and Social Interests---we cannot apply
- To maintain Uniformity in International system we need ITL

What to Discuss in ITL ?

- International Economic Relations –History and Development
- International Economic and Trade Institutions(IMF,IBRD,ITO,GATT,WTO) and Their Role
- Issues in ITL includes Market Access, Tariff Regulations, Cross border Sale of Goods, Services, Capital, Labour, Dumping, Anti-Dumping, Subsidies,Countervailing Measures.etc., ,

International Trade Regulations: An Overview

- What is Regulation?
- Giving of authoritative directions to bring about and maintain a desired degree of order in any given society
- Kinds or Venues of Trade Regulations
 1. National
 2. Bilateral
 3. Regional and
 4. Global or International Trade Regulations

Bretton Woods Conference and International Trade Organizations

- Why Bretton Woods Conference ?
Economic Policies of late 19th early 20th Century- beggar-thy neighbor, Great Depression, World War II led to set back to international trade
- Establishment of the IMF, its objectives, structure functioning and criticism etc
- Establishment of the IBRD (IFC, IDA, ICSID & MIGA) its objectives, structure functioning and criticism etc
- Establishment of the ITO/ GATT,
- Establishment of the UNO its objectives, structure and Functions
- How WTO is different from the above Institutional setup

ITO, GATT & Int. Trade

- Bretton woods conference and the idea of establishing the ITO
- UN Ecosoc Res.of 1946 “UN Conference on Trade & Employment” with the purpose of drafting ITO charter
- Four preparatory conferences of London,1946; New York,1947;Geneva,1947 and Havana Conference, 1948
- Havana Charter a constitution of ITO, which discussed various trade issues include purposes, employment, economic development, commercial policies, restrictive trade policies, Inter-governmental agreements, the structure, functioning and legal status of the ITO and settlement of disputes.
- Rejected the Idea of ITO by US itself, the socialist world and the developing countries.

GATT and International Trade Regulations

- Objectives of the GATT
Raising standards of living, ensuring full employment, tariff reduction, free trade, etc.,
- Basic principles of GATT
MFN, National Treatment, Binding commitments, transparency, etc.,
- General Description of GATT: GATT now consists of Objectives and Four parts-
- Part 1 (art. 1 & 2) on MFN Clause and tariff binding or schedules of concessions;
- Part II (Art.3-23) containing commercial provisions which form the GATT's code of for its C.Ps with regards to trade matter
- Part III (Art, 24-35) Procedural and miscellaneous provisions
- Part IV (Art. 36-38) Provisions relating to developing countries.
- GATT Contribution to International Trade Regulations

A Note on Early Rounds

- The Geneva, 1947: 23 founder CPs 45000 Tariff concessions were agreed covering 10 Billions and scope of future negotiations
- The Annecy,(France)1948-49, 33 CPs,5000 Tariff concessions were exchanged
- The Torquay (England) 1950-51, 37 CPs 8700 tariff concessions were agreed
- The Geneva, 1955-56, 22 CPs participated worth 2.5 billion tariff concessions were agreed
- The Dillon Round (Geneva)1960-61 45 CPs, about 4400 T.C. covering 4.9 billion trade. Single schedule concession was agreed to EEC (1957)
- The Kennedy Round (Geneva) 1964-67, 50 CPs who accounts 75 per cent of world trade. T.C covered 40 billions trade and code on anti dumping was approved.
- The Tokyo Round 1973-79, 102 CPs and worth 300 billion trade agreements were reached. Other codes like TBT, Subsidies, import licenses custom valuations etc.. Were developed.

Why Uruguay Round?

- Failures of earlier GATT rounds of Negotiations in bringing all trading issues
- Why Rounds of Negotiations in the GATT?
- Role of Various GATT Rounds of Negotiations in the development of international trade Regulations (earlier 7 rounds)
- By 1980s, world-trading system changed, the factors, which are responsible for these changes include; the liberalization, globalization and the privatization process.
- As a consequence, investments required guarantees, the IPRs required better protection and the proper dispute settlement mechanism was required.
- Added to above, the service sector contributed more than 40% to Global Trade but it was out of the GATT system.
- As GATT could not address above-mentioned important areas and need aroused to include in the Uruguay round of negotiations

Goals of the Uruguay Round

- To further liberalization of trade by reducing tariffs and other barriers to trade.
- To Create Institutional Mechanism for effective implementation of trade regulations
- To properly reflect the modern developments in the world trade by including in the GATT negotiations for the first time TRIMS, GATS, and IPRs.
- To bring an end to exemptions of the GATT rules such as those granted to the agriculture, clothing and textiles sectors and resubmit them to GATT
- To improve and strengthen the GATT dispute settlement procedure for effective implementation of international trade regulations

Uruguay Round—Problems and Prospects

- Differences between developed and developing countries
- LDCs put reservation on inclusion of new subjects and they demanded preferential treatment, & respect their sovereign rights
- No other int. treaty has been as little understood and yet has raised as much concern and hostility in our country.
- Wide range apprehensions have been expressed in many developing countries including India, Which include;
- Our sovereignty was compromised; our agriculture would be ruined; farmers would have to buy their seed every year from multinational corporations; genetic wealth would lost; drug prices would shoot up; and our market would become heaven for foreigners.
- Main contentious issues were the agricultural subsidies, public distribution system, patenting of seeds and life forms, and textiles and clothing.

Achievements of the Uruguay Round and the WTO

- Uruguay Round Established the WTO and put important treaties as Annexes to the WTO
- 4 Annexes to the WTO
- Annex 1A-Trade in Goods
- Annex 1B- Trade in Services
- Annex 1C-TRIPS
- Annex 2 -DSU/DSB
- Annex 3-Trade Policy Review Mechanism
- Annex 4- Plurilateral Agreements

Annex I A: Trade in Goods

- Difference between GATT 1947 and 1994
- 12 other sub-agreements in GATT 1994 for e.g.
- Agreement on Agriculture, Textiles and clothing
- Other agreements include SPM, TRIMS, TBT, Pre-shipment, Customs Valuation, Rules of Origin, Anti-dumping, Subsidies and countervailing measures, Safeguards, etc

Annex IB-GATS

- Why GATS? Growing Imp. of Services in the World Economy
- Difference between GATS and GATT
- Operation of GATS- Three Levels

Framework agreement – 29 articles sets-out general principles and obligations like MFN, NT, Transparency, etc.,

Annexes containing specific services

Schedules lists Specific commitments and exemptions

- Scope of services (4 modes)
- Cross-border, consumption abroad, commercial presence and movement of natural persons
- Classification of GATS (162), based on UN Central Product Classification, this identified 11 basic service sector plus 12th category as miscellaneous

Annex IC-TRIPs

- Why TRIPs?
- In Tokyo round trade in counterfeit (trademark) goods had started a serious issue and attempts were made but failed.
- Agreement on “Measures to discourage the importation of counterfeit goods” a draft was circulated in 1979 & 1984
- WIPO efforts were also failed to have an agreement
- The Group of Exports on trade in Counterfeit Goods met on six times in 1985 and some suggestions
- Objections were raised to include IPR in trade negotiations, however compromise was that every IPR is linked with trade and it became Trade Related IPRs

IPR Regulations Before TRIPs

- **What is Berne regime?** Berne regime consists of Berne Convention 1886 for the protection of literary and artistic works and other conventions on copyrights and neighbouring rights
- **What is Paris regime ?** Paris Regime consists of (a) the Paris Convention for Protection of Industrial Property, 1883, (b) Other related international Conventions on Patents, Industrial Designs and Trademarks.
- **GATT & IPRs:** Though GATT not dealt with IPRs as such but there were some provisions like : Art IX on Marks of Origin, Art XX on Patent protection, Trade Marks, Copyrights and prevention of deceptive practices. Other articles include Articles I, III, XXII and XXIII
- By and large IP was considered as “acceptable obstacle” for free trade until the Tokyo Round.

Analysis of TRIPS Agreement

- **TRIPS consists of 73 articles divided into 7 parts**
- **Part 1 General principles and basic principles (Art 1-8)**
- **Part II IPR issues covered in TRIPS (Art 9-40)**
 - Copyright and related rights (Art. 9-14), Trademarks (Art 15-21)**
 - Geographical Indications (Art 22-24), Industrial Designs (Art 25 & 26)**
 - Patents (Art 27-34), Layout designs of integrated circuits (Art. 35-38)**
 - Protection of undisclosed information (Art 39),**
- **Enforcement of IPRs (Part III- Art 41-61),**
- **Acquisition and maintenance of IPR (Part IV. Art. 62)**
- **Dispute Prevention and Settlement (Part V Art 63 & 64)**
- **Transitional Arrangements (Part VI Art 65-67)**
- **Institutional arrangements and final provisions (Part VII Art 68-73)**

Basic Principles of WTO

- Most favored nation (MFN) Treatment:
- National Treatment:
- The Principle of Non-Discrimination and Equality of states
- Changing Concept of Sovereignty & Protection of National Interests
- Transparency and Reciprocity
- Free Trade and Fair Trade
- Binding Commitments
- P.S.N.R and Non-Intervention in Domestic Affairs

Conclusion

- “Globalize or Perish” is now the buzzword synonymous to “Do or Die” which conveys that there is no alternative to globalization and everybody should learn to live with it.
- India, being a signatory to the W.T.O, can no way step backwards. This is not the time to curse the darkness but to work for making India emerge as a global market leader.

Last but not least, it was considered that ignorance of law is no excuse. But now we can tell ignorance of WTO is no excuse in the interest of our nation

- Know the Rules to play the Game well

Thank You