

**ACHIEVEMENTS OF INDIA OBTAINED THROUGH MEASURES TAKEN BY WORLD  
TRADE ORGANISATION (WTO)**

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**ABSTRACT**

My research paper deals about the achievements gained by India through the measures and agreements taken by WTO(World Trade Organization) in order to improve economic standard of the nation through free and fair trade worldwide which includes goods, services and to conduct business. The motive of WTO is to treat all the country nations equally without discrimination among trading countries and to promote free trade and WTO provides special access to developing countries. This paper says that WTO mostly benefits developed countries, but it doesn't mean developing countries like India losing but not gaining as compared to developed nations, it is limited as compared to those developed countries but if any country gets out of WTO it would become an infinitely laborious task of entering into bilateral negotiation with each and every trading partner countries. In short, WTO must not cause any harm to developing countries and all its measures and agreements have to bind and compatible with both developed and developing nation's internal norms and to prevail distortion in the international market. The main aim of the paper is to find out any gain or loss to India being the member country under WTO.

**Key words:-**

World Trade Organisation - free flow trade - Agreements and measures - GATS - TRIP's  
- AOA - ATC - TRIM's - developed and developing countries.

**Materials and methods:-**

The research more on relied on the secondary source of data such as book, journals, e-sources, articles and newspapers. Due to the shortage of time, the researcher in which primary source of the data such as interview and field research is not more adequate in result of data collection and interpretation in which parameters so described under this counteractive action and early intercession structure, immense research is being directed to figure out which of the numerous current projects are genuinely powerful.

**Results:-**

WTO is an organisation for trade opening and it is forum for government to negotiate trade agreements. WTO is a place for them to settle trade disputes. WTO mostly benefits the developed countries and the developing countries are limited with gains compared to developed countries. India has to work hard creatively to overcome the challenges faced under WTO.

**Conclusion:-**

The developed countries tailored the WTO in such a way that they are sitting in the top of the funnel and enjoy maximum benefits out of it, as a result, the remaining countries were pushed to the bottom end of the funnel, where the benefits are limited. However, with proper coordination and guidance, these holes can be fixed with amendments that will result in mutual benefit. The relationship between rich and poor countries is symbiotic, where one is needed for the other to thrive.

**INTRODUCTION**

WTO enables smooth trade transitions within the globe with preset protocols. Every member of WTO is aware of the rules and regulations set by the association and they should comply that without any deviation. They understand the penalties for breaking the rules and how to play the global trade game, which certainly creates a safer trading arena for everyone. The WTO also provides its members with a fair method to resolve trade disputes.[3]

In 1947 India founded the General Agreement on Tariffs and Trade (GATT) 1947, later it was annexed with global rules regulations to suit the entire world and the World Trade

Organization was commenced on January 1st, 1995 after the conclusion of the Uruguay Round of Multilateral Trade Negotiations.(General Agreement on Tariffs and Trade (Organization) and General Agreement on Tariffs and Trade (Organization). 1981) India played an active role in developing the rule-based system in the governance of international trade to ensure stability and predictability. This is essential for smooth flow of trade and prosperity for India and rest of the world. India, because of its involvement in drafting the WTO avails the status as Most Favoured Nation.[4]

WTO comprises several agreements controlling all trade activities for most of the goods and services produced, consumed and traded within the country and crossing the borders. The WTO also controls the subsidies, GATS, TRIP's TRIM's, textile import and export, agricultural goods, meat, poultry and other perishable, non-perishable and FMCG goods. Not necessarily all the agreements should help India but some rules might create challenges to India, in such situation, there is a separate body called Dispute Settlement Body, which resolves all the conflict of interest arises between the member nations.

**Aim:-** To analyse whether there is any gain or loss to India being the member of WTO.

**Research Questions:-**

**Problem:** Is WTO is friend or foe of India?

**Intervention:** Major agreements and regulation of WTO

**Comparison:** How the role of India differ from other developed western nations in WTO

**Outcome:** WTO can impinge upon the sovereignty of India only when India upscale its Diplomatic capability.

**Objectives:-**

- To study the role of WTO in India
- To concentrate on Indo-Us WTO problem
- To analyze the impact of agreements made by WTO on India

**Hypothesis:-**

Measures taken by WTO helps to improve the standard of India relating to worldwide trade is restraining by developed nations through its activities and India has to upscale its diplomatic capability to overcome the challenges faced by it.

**Materials and Methods:-**

The present research is conclusive, descriptive and based on non-empirical design. Qualitative data was generated to test the research hypothesis. In order to collect the data on the dimension of the study , a research instrument was designed. The study was conducted on secondary source of data books, articles, journals, e-sources, theories and the relevant provisions with decided case laws. Focusing on these three areas put forward specific research problems.

**Research Methodology:-**

The author has used the doctoral method of study. It is a theoretical research and it is pure in nature. The author has used secondary sources of study. The materials used for the purpose of this study include various statistical reports, various studies made by eminent organizations, legislation, and e-sources.

**Chapterization:-**

This paper is divided into three chapters

**Chapter 1: Is WTO friend for India**

In absence of WTO India would lose a platform through which we can mobilize opinion of like-minded countries against selfish designs of the west. WTO provides a forum for such developing countries to unite and pressurize developed countries to make trade sweeter for poor countries.

**Chapter 2: Achievements by India under WTO agreements**

There are various agreements like Agreement on Subsidies and Countervailing measures, GATS, TRIP's, TRIMS, Agreement on Agriculture and Agreement on Textile and Clothing

which have provided some benefits and drawbacks to India and measures are provided to India to over the challenges under WTO.

### **Chapter 3: Challenges faced by India due to developed nations**

WTO is undemocratic in various ways that lead to developed richer countries winning out over less developed poorer countries and developing countries are limited with gains compared to developed countries.

#### **IS WTO FRIEND OR FOE**

India is the chief Architect of WTO and its frameworks, additionally, India is leading the pack of developing nations. To sustain the global development Index, it is very important that the BRICS (Brazil, Russia, India, China & South Africa) countries should have a strong presence in the decision made in WTO. India should preserve its business gains from the WTO in a more constructive manner. WTO provides a platform through which India can pressurize the highly and moderately developed countries to have regulated trade.(Vasudeva 2000) In the absence of WTO, there will not be any governing bodies that channelize the trade flow and protect the developing countries falling prey to the capitalist countries.[5]

Economic and Commerce experts suggested that India should withdraw from the WTO and not to agree to the policies that harm the Indian economy in the long and short run. However, any such decision might have a huge impact in the Indian Economy, which is not recommended in the current situation. As mentioned above, India enjoys the perks of a Most Favored Nation status in WTO[6]. Decision to move out of WTO is easily said than done because any such decision would void all the existing agreements with the trading partner, as a result, new agreements needs to be established with every partner instead of a single body that controls the free flow of trade with universal policies that considers the progress of entire globe. To avoid any such chaos, India should continue in the WTO in view of the national interest.[7]

India is always committed to the development of all its partner, as it believes in the policy of mutual and sustained growth through cooperation and coexistence. Few examples but not

limited to are Doha Development Agenda, Special Safeguard Mechanism, a Permanent solution of the issue of public stockholding and others. It is very important to understand that the WTO Dispute Resolution Mechanism is highly motivated to resolve the conflicts without hurting any of the partners. Chronological list of cases in WTO can be accessed here some are:

**Case 1:** Measures relating to solar cells & solar modules. (the U.S accused India)

**Case 2:** CVD on hot rolled carbon steel products from India. (India accused the U.S)

**Case 3:** Safeguard measures imposed on cotton yarn (India accused Turkey)

**Case 4:** Seizure of generic drugs in transit. (India accused the European Union and member state)

**Case 5:** Measures concerning importing certain agricultural products (the U.S accused India).

**Case 6:** Anti Dumping Duty imposed for USB Flash drives (Chinese Taipei accused India)

Hence, WTO is a body which provides the opportunity to the aggrieved country to bring unfair trade practices to notice of Dispute Settlement body and to bring an end to such unfair practice. Considering the above activities, it is imperative that it is extremely difficult to find an alternative for the WTO in the near future.(Pant 2012)

## **ACHIEVEMENTS OF INDIA UNDER WTO AGREEMENTS**

### **1. Agreement on subsidies and countervailing measures**

The WTO SCM Agreement contains a definition of the term “subsidy”. The definition contains three basic elements:

- a financial contribution(Vasudeva 2000)
- By a government or any public body within the territory of a Member
- which confers a benefit. All three of these elements must be satisfied in order for a subsidy to exist.[8]

In order for a financial contribution to be a subsidy, it must be made by or at the direction of a government or any public body within the territory of a Member. The SCM Agreement

applies to the national governments and also to all the sub-elements reporting to the national government such as public bodies, state-owned companies etc. [9]Further, Such Financial contribution must also provide benefit to the industry. Any cash grants are straight and can be determined easily, on the other hand, if there is any capital infusion by the government or other public bodies will be very hard to recognize, such issues are resolved by appellate body of WTO.

The World Trade Organization (WTO) has ruled against the U.S. imposing high duty on imports of certain Indian steel products, an order hailed by India as a significant victory that will help domestic manufacturers and exporters.[10] The Appellate Body of the WTO has ruled that the high duty imposed by the U.S. on the certain Indian steel imports was not in alignment with the ASCM.(Müller 2017) Out of 10 products 7 products suffer from inconsistency on which U.S has imposed CVD up to 577 percent on imports of hot-rolled carbon steel flat products from Indian manufacturers includes steel nails, Steel threaded rods, line paper products, PET, pre-stretched concrete and steel wire strands.

India has achieved a significant victory at the WTO, as the Appellate Body held that the Countervailing Duty (CVD) measures imposed by the U.S. against certain hot-rolled carbon steel flat products are inconsistent with various provisions of the ASCM(“Agreement on Subsidies and Countervailing Measures,” n.d.) and affecting the domestic producers. A CVD cannot be imposed in case a supplier is a private player. In this case, while NMDC (National Mineral Development Corporation) is state-run, it does not discharge government functions or possesses government authority, to be called a public body under WTO rules.

### **1.The General Agreement on Trade in Services (GATS)**

The purpose of GATS is to establish a sound multilateral framework or principles and rules for trade in goods and services. Almost all the countries have the law that regulates the import/export of foreign goods and services in areas such as finance, media, communications, transport etc. The GATS Agreement covers all services (161 tradable services under GATS) – financial services (Banking (Cards, Core banking, Mortgage etc), Insurance (Health, Life, Auto, house etc.)), education, telecommunications, maritime transport, Retail, Logistics, Entertainment etc.

The GATS define services in four 'modes' of supply: cross-border trade, consumption abroad, commercial presence, and presence of natural persons.(Ronald 2012)

**Mode 1:** Cross Border -

Services which themselves cross-frontiers from one country to another e.g. Distance learning, consultancy, BPO, KPO etc..

**Mode 2:** Consumption abroad -

Services, that are available within a country for consumers from different nations such as tourism, educational for foreign students, medical treatment etc.

**Mode 3:** Commercial Presence -

Services supplied by an entity of one country, which is commercially pressed in another e.g.: banking, hotel etc.

**Mode 4:** Movements of natural persons -

Foreign national providing services that are skilled and unskilled such as Doctor, nurse, engineer, consultants etc. functioning as a consultant, employee, from one country to another.

Essential services provided by governments are exempted from GATS. These are services provided on a non-market basis and are available as part of basic functions for a country to operate (e.g. Social security schemes, health Education etc).[11]

GATS provides channel trade liberalization. Understanding the usefulness of domestic reforms in the form of regulatory reforms that may be required to improve India's gains from service liberalization assumes special importance.(Secretariat 1999) It is the development of information technology, and the changing economic environment of many countries, which paved the path for service sector to grow faster than the agricultural and industrial sectors. This trend has its impact on the volume of trade in services. (Tans, n.d.)Evidence shows that the growth rate of trade in services is higher than the growth of trade in goods.[12]

## **2. The TRIPs (Trade Related Intellectual Property)**

It has regime has emerged as the basic framework for ensuring intellectual property rights across the world. TRIP's came into force on 1<sup>st</sup> January 1995. It includes areas like Copyright(performer, producer of sound recording and broadcasting organization), Trademark(service



mark), Patent(inventions including protection of new varieties of plants), the geographical indication(origin), industrial design, layout design of integrated circuits. Enhancing the existing Patents and acts such as Copyright Amendment Act (2010), Acts-Patents Amendment Act (2005) are designed to provide a more robust framework that satisfies the WTO's TRIPS agreement, In addition to that several fresh legislations are amended to upgrade the IPR of the country.(Alfarraj 2016)

Main objectives of TRIP's include but not limited to

- Reduction of distortion of international trade
- Promotion of effective and adequate protection of Intellectual Property Rights
- Transfer of Technology
- To advance the technological knowledge of producer and user
- To promote social and economic welfare

Though several amendments and enhancements are to satisfy the WTO's TRIPS there are some exceptions to the patents such as

- Food &
- Lifesaving drugs

India was granted a ten year transition period between 1995 and 2005 to make the domestic legislation comply with the TRIPs rules and regulation. So for India, the TRIPs agreement became effective in 2005. Additionally, India was offered an extension of 5 years as the patent regime was not available in the critical sector like pharmaceuticals. Developed countries like the U.S and European nations want to extend the patent periods of pharmaceutical so that it makes delay to be a generic that is to be available in local markets. [13]Hence, existing laws were amended and fresh legislation were introduced during this period in order to produce generic medicines. India at generic medicine manufacturers certain life-saving drugs like Novartis (Branded of Glivec)for lower cost with same elements but in different name Natco-Pharma just for 9,000 Rs.(Watal 2001)

The Doha Declaration demanded that the developing countries should be granted the rights to compulsory license and parallel import of the Pharma products (Article 31) to handle the emergency and basic safety and protection against the epidemics and endemics. The technological and medical growth and infrastructures in the developing countries cannot be compared with the developed countries. Additionally, within the developing countries, not all these countries have the similar infrastructure. The BRICS countries will benefit the most from their research and developments are on par with the developed countries on the other hand other developing are lagging. Hence the high-level IPR protection might harm the developing countries in the lower tier.

The TRIPs will have both good and bad effect on the developing economies. On the brighter side this will lead to high level of innovation because of immunity, on the darker side this might breed the monopoly and reduces the competition and can have long-term consequences which will limit the producers to the minimal level, in turn, will reduce the innovation in the longer run. The Stronger IPR will result in the organic components such as Royalties,[14] licenses to the foreign companies and its subsidiaries and might result in erosion. TRIPs is, therefore, able to play a significant role in the overall promotion of trade and economic development.[15]

India is demanding the following remedies in implementing the TRIPs.(Tiwari et al. 2011)

- Drugs that are classified by the WHO as essential and life-saving should be exempted from the TRIPs
- Neither the living organisms nor the traditional knowledge should be patentable
- The date to implement the TRIPs agreement for the developing countries should be pushed back by five years 2005 and more

### **3. TRIMS( Agreements on Trade-Related Investment Measures)**

This TRIMs Agreement recognizes a symbiotic relationship between the trade and investment and there is a direct relationship between these two, any impact on one could harm the other drastically. This agreement suggests that the member countries should not impose any

restriction on investment which could potentially distort the trade function. TRIMs direct that the member nations should not apply any restrictions to the foreign investments that are not approved by the WTO. The purpose is not to distinguish the foreign funds that hinder the foreign investment in potential markets. India, in particular, made several relaxations since the launch of the New Industrial Policy in 1991[16]. TRIMs had notified India that the investment and trade policies in India are not in alignment with the provisions.

- Local content requirements in the production of Newsprint
- Local content in the production of pharmaceutical products such as Rifampicin & Penicillin – G
- Dividend balancing requirements for investment in 22 categories of consumer goods and services

Such notifications were due since December 31, 1999. None of the above measures are in force at present. Hence, India does not have any outstanding obligations with the TRIMs agreement as far as notified TRIMs are concerned.[17]

#### **4. AOA(Agreements on Agriculture)**

As part of the decisions agreed on the final Act of the Uruguay round of multilateral trade negotiations, The Agreements on Agriculture (AOA) was established in 1994 (Marrakesh-Morocco), this agreement was affected on January 01, 1995. [18]The primary objective of AOA was to improve the predictability and security for the agricultural produce, so that both the importing and exporting nations would have a clear path defined. The AOA aims to establish a market-based trading system to be deployed.(India. Ministry of Commerce and Industry and India. Ministry of Agriculture 2001) These policies would harm the Indian Economy in several ways as India is an agricultural economy. The new rules apply to

- A market access - Various trade restrictions confronting imports and export of the agricultural produce.
- A domestic support - Subsidies and other programs
- An export subsidies and other methods used to make exports artificially competitive

The WTO Agreement on agriculture has both good and bad effects on Indian agricultural practices. A vast majority of Indian people depends on agriculture, Hence the export and import

of agricultural commodities are more controlled by the rules and regulations of the WTO rather than the needs of the local production and consumption. Therefore, WTO Norms have the direct impact on the rural population in India. Though the agreement allows governments to support their rural economies, but preferably through policies that cause less distortion to trade. Hence this system is completely guided by the WTO and in Long run, the government may not have direct control in the production-consumption chain.(Bartels 2015)

The AOA is tailored to the needs of every individual country and allows relaxation, for example, the people in developing countries rely heavily on the subsidies, hence these countries need not cut the subsidies or lower the prices to match the developed countries. All these countries will be given sufficient time to fulfill the obligations. Underdeveloped countries need not fulfill these commitments. India is an exporter of the agricultural produces and needs a detailed analysis and evaluation from the Indian perspectives. Any incorrect move would result in imbalance the Indian economy and hurt the citizens of India.

#### **5. Agreement on Textiles and Clothing (ATC)**

Agreements on Textiles and Clothing on dismantling restrictions has been spanning for more than two decades. The United States has been progressing very slowly and the request from the developing countries such as India is to accelerate the Dismantling restrictions. This would allow the free movement of the goods across the borders. As per the agreement, 85 % of the textile goods should be freed from the restriction by 2002 and 100 % free restriction from December 2004 onwards. Additionally, the US is increasing the duty taxes levied on the goods exported by the Indian producers, this is in violation of the rules set by WTO. The WTO clearly states that special situation and status must be given to the developing countries for a fair trading system that benefits both the partners mutually.[19]

### **CHALLENGES FACED BY INDIA DUE TO DEVELOPED NATIONS**

#### **Infliction of U.S on India under WTO**

There is evolving of cold war between the U.S and India which have witnessed a spectacular improvement in bilateral relations in almost all spheres.[20] However, WTO provides a platform

for both the countries and there are several disliking among each other especially in two spheres that are

- Agriculture &
- Intellectual Property

### **Agriculture**

Based on the above-mentioned comments, it is evident that the AOA was biased to favor the developed countries. To establish a balance, India and other developing and least developed countries requested amendments to the AOA proposed in 2008. This, in turn, would help these countries to reach a peaceful solution. In 2013 It is agreed to continue to stock the food at the administered prices without violating the rules set by AOA.

Currently, the United States has restricted the import of few agricultural goods from India, stating that the quality of these products are inferior and does not match the standard set by Food & Drug Administration. Similarly, India restricted the import of Poultry, Eggs and live pigs from the US for which the WTO had ruled against India stating that this restriction is against the International Norms set by WTO.

### **Intellectual Property**

- **Generic Medicine**

Developed countries like the U.S and European nations want to extend the Patent periods of pharmaceutical so that it makes delay to be a generic that is to be available in local markets. Hence, existing laws were amended and fresh legislations were introduced during this period in order to produce generic medicines. India at generic medicine manufacturers certain life-saving drugs like Novartis (Branded of Glivec) for lower cost with same elements but in different name Natco-Pharma just for 9000 Rs.(Lalitha, n.d.)

The Doha Declaration demanded that the developing countries should be granted the rights to compulsory license and parallel import of the Pharma products (Article 31) to handle the emergency and basic safety and protection against the epidemics and endemics. The technological and medical growth and infrastructures in the developing countries cannot be

compared with the developed countries. Additionally, within the developing countries, not all these countries have the similar infrastructure.

- **Domestic Content Requirement in Solar Panel**

To preserve the interest of indigenous industries in India, India has prescribed the domestic content requirement of the cells and panels, under which, about 5% of the procurements should be made from the suppliers within India. The US alleged that this requirement is against the Non-discrimination and National Treatment. India lost this proceeding to the US under the WTO's dispute resolution body, the judgment was rewarded in favor of the United States. India appealed against this to grant the extension for 2 more years without being penalized.

### **Role of India in WTO**

India is a founder member of the General Agreement on Tariffs and Trade (GATT) 1947 and its successor, the World Trade Organization (WTO), which came into effect on 1.1.95. India being the Most Favoured Nation in WTO, aims to grab the extra mileage from the WTO, eventually, it would result in increased benefits for India and other participating nations that constitute the WTO.[21]

WTO Secretary reported that, India being a frontrunner in many industries such as Technology, Services, hospitality etc. and complemented by the pool of human resources, India is all set to lead the sectors such as Banking & Financial, Telecom, Retail, Logistics etc.[22] which in turn will grab the business opportunities designed for the developed countries. Indian IT engineers are most preferred in the entire world because of the competitive skills and affordable rates. Indian IT and ITES have witnessed a spike in growth in last 3 decades. Considering the above-mentioned facts and trends, in spite of few hurdles, it is certain that India will be in the driver seat of the WTO to reap maximum benefits.[23]

To be a dynamic and to play a catalytic role in the WTO, India should face the following challenges:[24]

- India has to be more creative and proactive and lead the world in cutting-edge technologies
- Indian education pattern should focus on the future development of the country
- Currently, India is following the science and technology created by other developed countries, India should be in a position to create an infrastructure that stimulates the growth of science and technology within the country
- India should reach the international standards in the quality of both industrial and agricultural products
- India should properly plan and utilize its cheap and abundant human and natural resources
- India should support the foreign investment without making a dent to the local investors, thereby creating a harmony within the investors.[25]

### CONCLUSION AND SUGGESTION

The frameworks of WTO are designed not only to support the developed countries but also to benefit the developing and least developed countries. The developed countries tailored the WTO in such a way that they are sitting in the top of the funnel and enjoy maximum benefits out of it, as a result, the remaining countries were pushed to the bottom end of the funnel, where the benefits are limited. However, with proper coordination and guidance, these holes can be fixed with amendments that will result in mutual benefit. The relationship between rich and poor countries is symbiotic, where one is needed for the other to thrive. The WTO acts as a common platform to facilitate the Export and Import using universal protocols. If WTO gets more representation from the developing and underdeveloped countries, the face of WTO will change to support the needed party. This is a slow process and cannot happen over a night.

Traditionally India's approach was very optimal in following the rules set by WTO and will opt out of any projects and treaties that will impact the Indian nationals. One such example is the distribution of food grains at the subsidized price in the Public Distribution Scheme (PDS), the developed countries had warned India to stop the PDS. However, India had made it clear that it will continue to have its own stand for the agricultural sector[26]. India should invest more in

science, Technology and Infrastructure to reap the maximum benefits from the WTO. The Human Resources will add to India's growth.

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