

## **The Seattle Ministerial Conference**

6.30 India participated in the Third Ministerial Conference of the World Trade Organisation(WTO) held at Seattle from 30 November to 3 December, 1999. The Conference assumed importance and attracted wide publicity because of the efforts by a large number of Member countries to seek an endorsement from the Conference for the launch of a comprehensive round of negotiations, covering a wide range of subjects, including proposals to introduce regimes on Investment, Competition Policy, Transparency in Government Procurement, Trade facilitation, Trade and Labour Standards and Trade and Environment. There was also a move to get the conference to endorse a fresh round of Industrial Tariff negotiations; strengthen the “coherence” between the working of WTO and other International Organisations; introduce involvement of NGOs in the functioning of WTO’s Dispute Settlement Mechanism besides permitting the submission of amicus curiae briefs; and extend the duty standstill on Electronic Commerce, agreed to at the Geneva Ministerial Conference (1998).

6.31 India’s proactive agenda focused on highlighting its concerns arising out of the imbalances in several of the WTO Agreements, including those related to antidumping, subsidies, intellectual property, trade related investment measures, and the non-realization of benefits to the extent expected from Agreements such as those on Textiles and Agriculture. India has also emphasized the necessity of operationalising the Special and Differential Treatment clauses in the WTO Agreement and has brought out the difficulties faced through the increase in antidumping and antisubsidy investigations in areas where India and the developing countries have begun to acquire trade competitiveness. These concerns have been highlighted, inter alia, through as many as 24 proposals circulated in the General Council of WTO in the preparatory process leading to the Third Ministerial Conference. India

also expressed concern regarding overloading of the WTO’s agenda, especially with non-trade related issues.

6.32 To gather support for its position, India launched diplomatic initiatives to project its views through SAARC, the G-15 and the G-77 forums. India’s proposals on implementation issues have been jointly made with eleven other developing countries. India’s proactive agenda has been evolved in consultation with all concerned stake holders, including industry, civil society, expert bodies, national level political parties, labour unions and Chief Ministers of states. In addition, in depth studies have been assigned to premier research institutions on relevant issues. An Advisory Committee on International Trade, with representatives from industry, civil society, economists, other experts and concerned Ministries, together with its specialized sub-groups, has advised Government on key issues.

6.33 At the meeting, India resolutely opposed the inclusion of non-trade issues, like labour standards, in the agenda of the WTO. It also effectively created pressure for taking on board its implementation concerns. However, as no consensus-based conclusions could be reached on most of the issues before the Ministerial Conference, the work of the Ministerial conference was suspended. The Director General of the WTO has been entrusted with the task of creating consensus in order that the Ministerial Conference can resume its work.

6.34 India attaches utmost importance to the rule-based trading system, predicated on equitable principles, with avoidance of linkage of trade with extraneous issues. India, therefore, looks forward to the resumption of the work of the Third Ministerial Conference. In so far as our commitments to the WTO are concerned, the progress towards fulfillment on major items, where work is in progress, during the current year are outlined in Box 6.1.

## BOX 6.1

### Progress in fulfillment of our commitments to the World Trade Organisation (W.T.O)

**Quantitative Restrictions (QRs) :** QRs on imports maintained on Balance of Payments (BOP) grounds were notified to WTO in 1997 for 2714 tariff lines at the eight digit level. In view of the improvement in our BOP, the Committee on BOP Restriction had asked India for a phase out plan for these QRs. Based on presentations before this Committee and subsequent consultations with our main trading partners, an agreement was reached with those countries, except USA, to phase out the QRs over a period of six years beginning 1997. The US preferred a dispute under the WTO's Dispute Settlement Mechanism. Pursuant to the report of the Panel and the Appellate body, India and the USA have agreed to a bilateral settlement for determination of a reasonable period of time up to 1.4.2001, within which India has to implement the rulings and recommendations of the Dispute Settlement Body to remove the existing QRs in a phased manner. As on date, the number of tariff lines on which QRs exist have come down to 1429 at the eight digit level.

**Trade Related Intellectual Property Rights (TRIPS) :** The Agreement sets out the minimum standards of protection to be adopted by the Parties, in respect of (a) Copyrights and related rights; (b) Trade Marks; (c) Geographical Indications; (d) Industrial designs; (e) Patents; (f) Lay out designs of integrated circuits; and (g) Protection of undisclosed information (trade secrets) and the enforcement of these. A transition period of five years is available to all developing countries to give effect to the provisions of the TRIPS Agreement. 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 1.1.1995. As per our obligations under the WTO Agreement, the Patents (Amendments) Act, 1999 was passed in March 1999 to provide for exclusive marketing rights.

**Patents :** The basic obligation in the area of patents is that 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. In addition to the general security exemption which applies to the entire TRIPS Agreement, exclusion from patentability are 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-organism may also be excluded from patentability. The patent term provided for in the TRIPS Agreement is 20 years. A Bill to make these and other changes was introduced in Parliament and has been referred to a Joint Select Committee of the Houses.

In respect of plant varieties, there is an obligation to provide for protection by patents or by an 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 be providing effective protection. A decision has been taken to put in place a *sui generis* system as it is perceived to be in our national interest. A legislation to this effect tabled in the Parliament by the Ministry of Agriculture has been referred to a Joint Parliamentary Committee.

**Lay-out designs of integrated circuits :** India is a signatory to the international agreement (the Washington Treaty) administered by the WIPO. The main obligations of the Washington Treaty are also incorporated in the TRIPS Agreement with some enhancement and cover the protection of intellectual property in respect of lay-out designs that are original in the sense of being the result of their creator's own intellectual efforts. The obligations include national treatment to foreign right holders and a term of protection of 10 years. A legislation giving protection to lay-out designs, was introduced in the Rajya Sabha on 20 December, 1999 by the Department of Electronics.

**Copyright and related rights :** In the area of copyright and related rights, i.e., rights of performers, producers of phonograms and broadcasting organisations, the Agreement requires compliance with the provisions of the Berne Convention. Computer programmes are to be protected as literary works. The term of protection for copyrights and rights of performers and producers of phonograms is to be no less than 50 years. In case of broadcasting organisations, however, the term of protection is to be at least 20 years.

India is a signatory to the Berne Convention. The Copyright Act, 1957 as amended in 1994 takes care of our own concerns and meets with the requirements of the TRIPS Agreement except in the case of terms of protection of performers' rights. A Bill to increase this term to 50 years was passed by Parliament in December, 1999.

**Trade Marks :** Our trade marks law, The Trade and Merchandise Marks Act(TMMA), 1958 is in its essential features, in accordance with international law. A Bill to amend the TMMA was introduced in Parliament in 1993 so as to provide for protection to service marks also. The Bill could not be passed and subsequently lapsed. A Bill in this regard, however, was passed by Parliament in December, 1999 which, inter alia, provides for protection to service marks.

*Continue.....*

**Geographic Indications :** The Agreement contains a general obligation that parties shall 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. In India we do not so far have any specific law on geographical indications. Case law, however, enables legal action for protection of geographical indications. It was decided to enact a new law on the subject to take advantage of the provisions of the TRIPS Agreement . A Bill in this regard was passed by the Parliament in December, 1999.

**Industrial designs :** Obligations envisaged in respect of industrial designs are that independently created designs that are new or original shall be protected. There is an option to exclude from protection, designs dictated by technical or functional considerations, as against aesthetic consideration which constitutes the coverage of industrial designs. Our law, the Designs Act, 1911 is a very old enactment and needs updating. The Department of Industrial Development prepared a Bill in this regard, which was passed by the Rajya Sabha in December, 1999 and will now have to be passed by the Lok Sabha .

**Trade Related Investment Measures (TRIMS) :** Under the TRIMS Agreement, developing countries have a transition period of 5 years up to 31 December, 1999 during which they can continue to maintain measures inconsistent with the Agreement provided these are duly notified . We notified two TRIMS, viz. that relating to local content requirements in the production of certain pharmaceutical products and dividend balancing requirement in the case of investment in 22 categories of consumer items. In view of the inconclusiveness of the Seattle Ministerial Conference, where no final decision on the request of developing countries for extension of transition period for elimination of the notified TRIMS was taken, it needs to be seen what final decision is taken by the General Council on this issue.

**Tariffs :** Our commitments to reduce tariffs to the bound levels by 1.3.2000 exists in respect of non-agricultural and non-textile items and necessary action will be taken to fulfill these obligations.